TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 217.

THE UNITED STATES TRUST COMPANY OF NEW YORK, AS EXECUTOR AND TRUSTEE UNDER THE LAST WILL AND TESTAMENT OF MARY ANN SPARKMAN, DECEASED, APPELLANT,

vs.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &c.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED OCTOBER 15, 1875.

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1 To the honorable the judge of the district court of the United States in and for the southern district of New York:

John Sedgwick, of the city of New York, a citizen of the State of New York, as special receiver appointed by the district court of the United States in and for the district aforesaid, in the action hereinafter mentioned, brings this his bill of complaint against James T. Sparkman, in his own right individually and also as executor of the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, and against James D. Sparkman, of the city and county of New York, and against John Q. Preble, of the city and county of New York, citizens of the State of New York, and thereupon your orator complains and says:

That, as he is informed and believes, and therefore alleges, for several years prior to the first day of December, eighteen hundred and sixty-five, the said James D. Sparkman was a partner with one Ephraim B. Place and one James K. Place, in a special or limited partnership, formed pursuant to the laws of the State of New York, under the firm-name of J. K. & E. B. Place, in which partnership the said James D. Sparkman was the special partner, and the said James K. Place and Ephraim B. Place were the general partners, which said special partnership was dissolved on the thirtieth day of November, eighteen hundred and

2 sixty-five, owing at the time a large indebtedness, which has not yet been fully paid, and, in particular, there are now outstanding and unpaid notes of said firm to the amount of upwards of thirty thousand dollars, ($30,000,) held by A. S. Anderson & Company, and there is also outstanding and unpaid an indebtedness of said firm to the amount of about one thousand dollars, ($1,000,) due to Rensselaer Ten Broeck.

At the dissolution of said firm, and on December first, eighteen hundred and sixty-five, the said James K. Place and James D. Sparkman formed a general partnership, consisting only of themselves, under the firm-name of J. K. Place & Company, and continued business without other capital than the interests which the said James K. Place and James D. Sparkman then had in the assets and property of the said partnership of J. K. & E. B. Place, and the property which then belonged to said partnership of J. K. & E. B. Place passed into the possession of J. K. Place & Company, subject to the debts of J. K. & E. B. Place, and J. K. Place & Company began and continued to trade and deal with the assets of J. K. Place and E. B. Place, and mingled such assets with those of J. K. Place & Company indistinguishably, and the said James D. Sparkman in fact became liable for the debts of J. K. & E. B. Place as if he had been a general partner in that firm.

Before the formation of the firm of J. K. Place & Company, James D. Sparkman was the lessee for a term of twenty-one years from May first, eighteen hundred and sixty-three, with covenants of renewal, of two lots of land in the city of New York, described as follows: Beginning at a point on the northerly side of Forty-second street, distant three hundred and seventy-five (375) feet westerly from the westerly side of the Fifth avenue; running thence northerly and parallel with the Fifth avenue two hundred (200) feet ten (10) inches to the southerly side of Forty-third street; thence westerly along the southerly side of Forty-third street twenty-five (25) feet; thence southerly parallel

3 with Fifth avenue (200) two hundred feet (10) ten inches to the northerly side of Forty-second street, and thence easterly along the northerly side of Forty-second street twenty-five (25) feet to the place of beginning.

The lease under which the said James D. Sparkman held the said land was made by Gloverina R. Hoffman, wife of Samuel Hoffman, to

James D. Sparkman, and was dated March 14th, eighteen hundred and sixty-three, and was recorded in the office of the register of the city and county of New York, in liber 876 of conveyances, at page 22.

In contemplation of the liabilities which the said James D. Sparkman was about to incur as a member of said firm of J. K. Place and Company, and of the existing liabilities of said J. K. & E. B. Place, and to throw off from said land and leasehold estate the liability for debts then existing as well as for losses which might thereafter happen to said Sparkman in business, the said Sparkman, by deed dated November ninth, eighteen hundred and sixty-five, recorded December ninth, eighteen hundred and sixty-five, in the register's office aforesaid, in liber 955 of conveyances, at page 205, assigned the said lease and term of years in said premises to James K. Place; and James K. Place, by deed dated December first, eighteen hundred and sixty-five, recorded in the said liber, at page 206, on December ninth, eighteen hundred and sixty-five, assigned the said lease and term of years to Mary Ann Sparkman, wife of the said James D. Sparkman, since deceased; but each of said assignments was voluntary and without consideration, and was made with intent to hinder, delay, and defraud the creditors of the said James D. Sparkman.

After the making of the said assignment the said James D. Sparkman continued in the actual use and occupation of the said premises until in or about the month of October, eighteen hundred and sixty-eight.

4 The said Mary A. Sparkman died in or about the month of October, eighteen hundred and sixty-six, leaving in force her last will and testament, whereby she gave, devised, and bequeathed her estate in trust for the use and benefit (to the extent of the income of her estate) of her husband, the said James D. Sparkman, for his natural life.

James T. Sparkman, one of the defendants in this bill, was the son of the said James D. Sparkman, and was named in said will as an executor thereof, and said will was duly admitted to probate by the surrogate of the county of New York, to whom jurisdiction in that behalf belonged, and said James T. Sparkman qualified as an executor thereof.

By deed dated October twenty-fifth, eighteen hundred and sixty-eight, recorded in the register's office aforesaid, in liber 1077 of conveyances, at page 170, the said James T. Sparkman, as such executor, assigned the said lease and term of years to the defendant John Q. Preble, for the consideration expressed in said deed of sixty thousand dollars, ($60,000,) and the said Preble, for part of such consideration, executed and delivered to the said executor the bond of said Preble conditioned for the payment of the principal sum of forty thousand dollars ($40,000) on November first, eighteen hundred and seventy-three, with interest meanwhile semi-annually; and to secure payment of such bond the said Preble also executed and delivered to the said executor a mortgage upon the said leasehold premises and estate to secure payment of the said bond; which mortgage was recorded in said register's office, in liber 880 of mortgages, at page 276.

The said assignments to said Place and to Mary Ann Sparkman, and the said will, were all made in pursuance of a design to secure to said James D. Sparkman the benefit of said leasehold property and to defraud the creditors of James D. Sparkman existing at the time of said assignments, as well as those who should subsequently become such creditors, and the said assignments were made in fraud of, and with intent to hinder, delay, and defraud, all such creditors.

5 John Sedgwick, the same person who, in his capacity as receiver as aforesaid, brings this bill of complaint, was, on or about the twenty-seventh day of April, eighteen hundred and sixty-eight, duly appointed to be assignee in bankruptcy of said James D. Sparkman, who had been duly adjudged a bankrupt on his own petition, and the estate and effects of the said James D. Sparkman have been duly assigned to the said John Sedgwick, as such assignee in bankruptcy, and the said John Sedgwick, as such assignee, claims that by virtue of the fourteenth, thirty-fifth, and thirty-ninth sections of the act of the Congress of the United States, approved the second day of March, eighteen hundred and sixty-seven, entitled "An act to establish a uniform system of bankruptcy throughout the United States," the said leasehold property, and the proceeds thereof, have vested in him, the said John Sedgwick, as such assignee in bankruptcy.

The said James K. Place and James D. Sparkman, and also Lewis W. Burritt, j'r, and Thomas T. Sheffield, on the twenty-third day of December, eighteen hundred and sixty-seven, executed under their respective hands and seals an indenture in writing, made between the said James K. Place and James D. Sparkman, of the first part, and the said Lewis W. Burritt, j'r, and Thomas T. Sheffield, of the second part, which said indenture purported and set forth that whereas the said James K. Place and James D. Sparkman had become insolvent and unable to pay their debts in full, and desired that their property should be applied to the payment of their debts and liabilities, so far as it would pay the same, therefore the said indenture witnessed that the said parties of the first part thereto, for and in consideration of the premises therein recited, and the sum of one dollar to them in hand paid by the said parties of the second part, the receipt whereof was thereby acknowledged, had granted, bargained, sold, transferred, and set over, and by those presents did jointly and severally grant, bargain, sell, assign, trans-
6 fer, and set over unto the said parties of the second part, their successors and assigns, all and singular the lands, tenements, real estate, merchandise, goods, chattels, furniture, fixtures, debts, claims, demands, accounts, books of account, agreements, covenants, judgments, bonds, notes, bills of exchange, drafts, choses in action, stocks, rights, interests, leases, leasehold premises, and property of every kind and description, whether real and personal or mixed, of whatsoever kind and wheresoever situated, in the possession of or belonging to the said parties of the first part, jointly and severally, or to or in which they or either of them jointly and severally had any estate, right, title, interest, claim, or demand whatsoever in law or in equity; to have and to hold all and singular the property and effects thereby sold and assigned or intended so to be, and every part and parcel thereof, unto the said parties of the second part, their successors and assigns, to and for their own proper use, benefit, and behoof forever, in trust, nevertheless, and for the uses and purposes following, that is to say, to sell, convey, dispose of, and convert into money all and singular the property and effects thereby conveyed and assigned, or intended so to be, and with the proceeds thereof, after paying therefrom the costs, charges, and expenses of executing the trusts thereby created, so far only as they might lawfully pay the same, to pay all the debts and liabilities of the said parties of the first part, jointly and severally, of whatever kind, and to whomsoever the same might be due and owing, without any priority or preference whatever, except only so far as was provided for by the laws of the
te of New York and of the United States, so that if such proceeds
uld be sufficient for that purpose, every claim or demand in law or

in equity against the said parties of the first part, jointly or severally, whether due or to become due, should be fully paid and satisfied; but if the said proceeds should be insufficient to pay the said debts and liabilities in full, then to pay and divide the whole of the said proceeds to and among all the creditors of the said parties of the first part, as
7 joint or several debtors, pro rata, and without any priority or preference, except such as might be given by the laws of the State of New York and of the United States, so that each creditor of the said parties of the first part, or either of them, should have and receive his just and equal portion thereof. And the said parties of the second part thereby accepted the trusts thereby created, and thereby purported to agree to and with the said parties of the first part and their creditors, jointly and severally, to execute and perform said trusts to the best of their knowledge, skill, and ability.

Under color of the said last-mentioned indenture, the said Lewis W. Burritt, j'r, and Thomas T. Sheffield claimed as against the said John Sedgwick, as assignee as aforesaid, that whatever property had been conveyed by the said James D. Sparkman, in fraud of his creditors, prior to the said assignment vested, or that a right of action therefor vested in them, the said Burritt and Sheffield, as trustees under the said assignment, by means of which claim of the said Burritt and Sheffield there arose a conflict between the said John Sedgwick, as such assignee in bankruptcy as aforesaid, and the said Burritt and Sheffield, as to the title to and right of action for such property of the said James D. Sparkman as had been by him conveyed in fraud of his creditors, prior to the making of the said assignment; and thereupon the said John Sedgwick, as such assignee as aforesaid, by his amended bill of complaint brought by him as plaintiff in this court on the 22d day of June, eighteen hundred and sixty-nine, against the said Burritt and Sheffield and others, as defendants, prayed this court to set aside as against the said plaintiff the said assignment, and otherwise prayed this court as in and by his said bill, reference being thereunto had, will more fully and at large appear; and thereupon such proceedings were had in this court upon the said amended bill that afterwards, and on the third day of September, eighteen hundred and sixty-nine, your orator was by this
8 court duly appointed to be special receiver pending the said action, and until the final decree or further order of the court therein, of all and singular the lands, tenements, real estate, merchandise, goods, chattels, furniture, fixtures, debts, demands, claims, accounts, books of account, agreements, covenants, judgments, bonds, notes, bills receivable, drafts, choses in action, stocks, rights, interests, leases, leasehold premises, and of all property of every kind and description, whether real, personal, or mixed, of whatsoever kind and wheresoever situated, which were mentioned or referred to in or purported to be assigned, transferred, or conveyed by or by virtue of the said indenture of December twenty-third, eighteen hundred and sixty-seven, as to which no receiver had theretofore been appointed in said cause, and of the proceeds of such parts of said property, estate, and effects as remained in the hands of the said James K. Place and James D. Sparkman, or the said Lewis W. Burritt, junior, and Thomas T. Sheffield, or any or either of them, and all such rights of action, claims, and demands as under color or by the words of said assignment or indenture, or otherwise, purported or appeared or purport or appear to have been transferred or conveyed to or vested in said Burritt and Sheffield, under and by virtue of an act of the legislature of the State of New York, passed April 17, 1858, entitled "An act to declare and extend the powers of executors,

assignees, receivers, and other trustees, and to protect the rights of creditors and others against frauds, and for other purposes" or otherwise. And your orator has accepted such appointment as special receiver, and has duly qualified as such, and has entered upon the performance of the duties devolved upon him thereby. The said action is still pending, and before the said appointment of your orator no receiver had been appointed in said action of the leasehold estate and proceeds thereof herein above particularly mentioned, and by virtue of your orator's said appointment he has become vested as such special
9 receiver with the right and title thereto of the parties to said action.

To the end, therefore, that the said defendants, James T. Sparkman, individually in his own right and as executor as aforesaid, and James D. Sparkman, may, if they can, show why your orator should not have the relief hereby prayed, and may, upon their several and respective corporal oaths, and according to the best and utmost of their several and respective knowledge, information, hearsay, and belief, full, true, direct, and perfect answer make to each and every of the charges and statements of this bill, as if the same were hereinafter particularly repeated and they thereunto distinctly interrogated, and that the said John Q. Preble may, at his option, appear and answer this bill, and that the said assignments of the said indenture of lease and term of years may be decreed to have been fraudulent and void as against the creditors of the said James D. Sparkman, and that the property conveyed or affected, or purporting to have been conveyed or affected, thereby, and the proceeds thereof, and the right of action therefor, may be decreed to have vested in your orator, as such special receiver as aforesaid; and that the said James T. Sparkman, in his own right individually and as executor as aforesaid, may be decreed to account to your orator for the said indenture of lease, term of years and premises, and the proceeds and value thereof, and to pay to your orator such sum as may be found due upon such accounting; and that pending this action, and by the final decree therein, the defendant, James T. Sparkman, in his own right individually and as executor as aforesaid, may be restrained and enjoined from selling, assigning, transferring, surrendering, parting with, satisfying, impairing, reducing, or collecting the said bond and mortgage of the said Preble, or any part thereof; and that pending this action, and by the final decree of this court therein, the said defendant, John Q. Preble, may be restrained and enjoined from paying to any person other than your orator any part of the principal sum of money, or the
10 interest thereon, secured by the said bond and mortgage; and that pending this action your orator may be appointed receiver of the said bond and mortgage, with all the usual powers of such receiver in like cases, or that said bond and mortgage may be taken into the custody of the court, and that your orator may have such further and other relief in the premises as the nature of his case shall require and to your honor shall seem meet—

May it please your honor, the premises considered, to grant unto your orator not only the writ of injunction issuing out of and under the seal of this court, directed to the said James T. Sparkman, individually in his own right and as executor as aforesaid of the last will and testament of the said Mary Ann Sparkman, deceased, and to the said James D. Sparkman and John Q. Preble, their attorneys, servants, and agents, restraining and enjoining them according to the prayer of this bill, but also the writ of subpœna, issued out of and under the seal of this court, commanding them and each of them, under a certain penalty to be

therein expressed, to be and appear at a certain time, to be therein named, before this honorable court, and commanding the said James T. Sparkman, individually in his own right and as executor as aforesaid, to answer your orator's bill of complaint, and to do further and abide whatever this honorable court shall then direct.

And your orator will ever pray, &c.

C. W. BANGS,
Sol'r for Complainant.
THOMAS M. NORTH,
Of Counsel for Complainant.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

John Sedgwick, being duly sworn, deposes and says that, in his capacity of special receiver, as set forth in the foregoing bill, he is the complainant in this cause; that he has read the said bill, and knows the contents thereof; that the matters and things contained and set
11 forth in said bill, so far as they relate to his own acts, are true, and, so far as they relate to the acts and deeds of other persons, he believes them to be strictly true; that unless an injunction is issued, according to the prayer of the said bill, forthwith, he believes that he shall suffer great and irreparable damage from the violation and infringement of his rights by the defendants above complained of.

JOHN SEDGWICK.

Sworn and subscribed before me this eleventh day of September, 1869.
H. C. HOWELLS,
Notary Public in and for the City and County of New York.

Answer of James D. Sparkman.

The separate answer of the defendant, James D. Sparkman, to the bill of complaint exhibited against him, John Q. Preble, and James T. Sparkman, individually and as executor of Mary Ann Sparkman, deceased, defendants, by John Sedgwick, as special receiver, appointed by the district court of the United States in and for the southern district of New York, in a certain action wherein the said John Sedgwick, as assignee in bankruptcy of James K. Place and James D. Sparkman, was complainant, and the said James K. Place and others were defendants.

This defendant, now and at all times hereafter saving and reserving to himself all benefit and advantage of exception that can or may be had or taken to the many errors, uncertainties, insufficiencies, and imperfections in the said complainant's bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as this defendant is advised is or are material for him to make answer unto, answering, says:

That he is informed, and believes it to be true, and he therefore admits, that prior to the first day of December, in the year 1865,
12 the said bankrupts, James K. Place and this defendant, were partners with one Ephraim B. Place in a special or limited partnership, formed pursuant to the laws of the State of New York, under the firm-name of J. K. & E. B. Place, in which partnership this defendant was the special partner and the said James K. Place and Ephraim B. Place were the general partners, and which partnership was dissolved on the thirtieth day of November, 1865.

And this defendant, further answering, says that although at the time of the dissolution of the said partnership they owed a large indebtedness, yet said firm had assets and property in value and amount exceeding the amount of the whole debts and liabilities of the said firm by the sum of six hundred thousand dollars, and that all the debts and liabilities of said firm, except those due Anderson & Co. and Ten Broeck, were paid out of the assets and property of the said firm at the maturity thereof, and were, within six months of the dissolution of the said firm, fully paid and satisfied, and the debts to said Anderson and Ten Broeck were legally discharged, as hereinafter set forth.

And this defendant, further answering, says that while the said firm of J. K. & E. B. Place was in existence, A. S. Anderson & Company, of Buffalo, in the State of New York, and Renssalaer Ten Broeck, of the city of New York, were in the habit of depositing money with the said firm for safe-keeping and as a place of deposit, upon which they were allowed interest, and which moneys so deposited they were entitled to draw at any time, and as evidence of such deposits the notes of the said firm were given to the said A. S. Anderson & Company and said Renssalaer Ten Broeck.

That upon the dissolution of the said firm of J. K. & E. B. Place, said firm was indebted to the said A. S. Anderson & Company, for deposit so made as aforesaid, in a sum exceeding thirty thousand dollars, and to the said Renssalaer Ten Broeck, for deposits so made as afore-
13 said, in a sum exceeding one thousand dollars, for which notes of the said firm had been given, as aforesaid.

That the said firm of J. K. & E. B. Place was succeeded in its business by the firm of James K. Place & Company, composed of James K. Place and this defendant, which said firm of James K. Place & Company was formed on the first day of December, 1865, and carried on the same business previously carried on by the said J. K. & E. B. Place, at the same place of business, and that the said firm of J. K. & E. B. Place deposited with the said firm of James K. Place & Company money more than sufficient to pay all its said indebtedness to A. S. Anderson & Company and Renssalaer Ten Broeck, with directions to pay said indebtedness, and the said James K. Place & Company agreed with the said J. K. & E. B. Place to pay the whole of said indebtedness to said A. S. Anderson & Company and to the said Renssalaer Ten Broeck, with the moneys so deposited as aforesaid, and that, shortly after said deposit and agreement, the said A. S. Anderson & Company and said Renssalaer Ten Broeck had notice of such deposit, directions, and agreement, and assented thereto; but being desirous of continuing such deposit of their said moneys with the said James K. Place & Company, in the same manner that they had theretofore had the same on deposit with the said J. K. & E. B. Place, they severally continued their deposit-account with the said James K. Place & Company, and continued to deposit and withdraw from the said James K. Place & Company, on account of the moneys deposited by them, the said James K. Place & Company, until on or about the twentieth day of November, 1867, when the insolvency of the said firm of James K. Place & Company was publicly announced, and then there remained unpaid to the said A. S. Anderson & Company, of the moneys so deposited as aforesaid, the sum of thirty thousand dollars or there-
abouts, and unpaid to the said Renssalaer Ten Broeck, of moneys
14 so deposited as aforesaid, the sum of one thousand dollars or thereabouts.

That the notes of the said J. K. & E. B. Place, given as aforesaid, had never been actually taken up or returned, but remained in the

actual possession of the said A. S. Anderson & Company and Renssalaer Ten Broeck, and this defendant claims and insists that, upon an accounting between the said J. K. & E. B. Place, James K. Place & Company and the said A. S. Anderson & Company and the said Renssalaer Ten Broeck, nothing whatever will be found due from said firm of J. K. & E. B. Place to the said A. S. Anderson & Company and to the said Renssalaer Ten Broeck, and the said notes of the said J. K. & E. B. Place will be found to be fully paid and satisfied.

And this defendant, further answering, says that the said notes of the said J. K. & E. B. Place were not the notes of this defendant, and that he was in no wise liable thereupon, or upon any of them, and was in no wise indebted to the said A. S. Anderson & Company and the said Renssalaer Ten Broeck, upon said notes or any or either of them, by reason of his connection with the said firm of J. K. & E. B. Place, or in any other way or manner whatsoever, except only so far as he became indebted to the said A. S. Anderson & Company, and Renssalaer Ten Broeck as a member of the said firm of James K. Place & Company.

And this defendant, further answering, says that it is not true, and he therefore denies, that the said firm of James K. Place & Company commenced or continued business without other capital than the interests which the members of said firm had in the property of the said J. K. & E. B. Place, and that it is not true, and he therefore denies, that the property which at any time belonged to J. K. & E. B. Place passed into the possession of the said James K. Place & Company, subject to the debts of the said J. K. & E. B. Place, and that it is not true, and he therefore denies, that the said James K. Place & Company ever began or continued to trade or deal with the assets of J. K. & E. B. Place, or mingled such assets with those of the said James K. Place, undistinguishably or at all, and that it is not true, and he therefore denies, that he, this defendant, ever became liable for the debts of J. K. & E. B. Place, as if he had been a general partner in that firm or otherwise.

And this defendant, further answering, says that it is true, and he therefore admits, that before the formation of the firm of James K. Place and Company he, this defendant, was the lessee for the term of twenty-one years, from May 1st, 1863, with covenants of renewal, of the two lots of land particularly described in the said bill of complaint, and that he held the same under the lease mentioned and referred to in the said bill of complaint.

And this defendant, further answering, says that prior to the first day of December, 1865, that being the time of the actual formation of the said firm of James K. Place & Company, this defendant was, and for a long time prior thereto had been, possessed of ample means and was and had been worth, at least, the sum of two hundred and fifty thousand dollars over and above all his debts and liabilities, and over and above the sum of two hundred thousand dollars to be contributed by him to the capital of James K. Place & Company, and that on and for a considerable time prior to the said first day of December, in the year 1865, the whole of his debts and liabilities did not exceed the sum of ten thousand dollars, exclusive of what bonds he might have had outstanding, amply secured by mortgages on real estate, which said bonds amounted in the aggregate to less than fifty thousand dollars.

And this defendant, further answering, says that, being well advanced in years, he was desirous of making in favor of his wife, Mary A. Sparkman, since deceased, a settlement of a portion of his property, and in order to carry out such purpose before the first day of December,

1865, having provided for paying his proportion of the capital to be contributed by him to the firm of James K. Place & Company, which
16 was paid in by him on the said first day of December, 1865, he directed his counsel to take the proper steps to secure to his said wife from his then remaining existing property the sum of one hundred thousand dollars or thereabouts; and that the specific items of his property intended by him at that time to be so disposed were forty thousand dollars of Government securities, being seven-thirty and five-twenty bonds of the United States, and the leasehold premises in Forty-second and Forty-third streets, mentioned and described in the said bill of complaint, on which he had erected a dwelling-house and stable, which constituted the family residence, and which were worth between forty and fifty thousand dollars, and also the furniture, horses, and carriages then in use by this defendant therein; and that, in pursuance of such desire and direction, and for the purpose of vesting the title in and to said leasehold premises and the buildings and improvements thereon in his said wife, through the usual channel of a third person, he, this defendant, prior to the first day of December, in the year 1865, made and executed a deed dated the ninth day of November, in the year 1865, and recorded in the register's office of the city and county of New York, on the ninth day of December, 1865, in liber 955 of conveyances, page 205, whereby he assigned and conveyed to James K. Place, the brother of his said wife, the said lease and leasehold premises and term of years therein, with the buildings and improvements thereon, and by deed bearing date the first day of December, 1865, made and delivered by the said James K. Place and recorded in said register's office, in liber 955 of conveyances, page 206, December 9th, 1865, the said James K. Place made and assigned to the said Mary Ann Sparkman, the wife of the said James D. Sparkman, the said lease and leasehold premises and the term of years therein, with the buildings and improvements thereon, which are the same deeds mentioned and referred to in the said bill of complaint.

17 And the said defendant, further swearing, says that it is not true, and he therefore denies, that the said deeds of conveyance, or either of them, were made in contemplation of the liabilities which he, this defendant, was about to incur as a member of the firm of James K. Place & Company, or of any existing liabilities of said firm of J. K. & E. B. Place, or to throw off from said land and leasehold premises any liabilities for debts then existing or for losses which might thereafter happen to this defendant in business or otherwise.

And this defendant, further answering, says that it is not true, and he therefore denies, that said conveyances and assignments, or either of them, were made by him, this defendant, with intent to hinder, delay, or defraud his creditors.

And this defendant, further answering, says that it is not true, and he therefore denies, that after the making of the said deeds of assignment of the said lease and leasehold premises aforesaid, he, this defendant, continued in the actual use and occupation of the said premises thereby conveyed, or that he continued in the use or occupation thereof until in or about the month of October, 1868, but on the contrary thereof, immediately after the execution of the said deeds of assignment, the said Mary Ann Sparkman entered into the actual use and occupation of the premises thereby conveyed, and continued in such use and occupation until her death, and since her death, and until the same were sold by the defendant James T. Sparkman, as executor of her last will

and testament, the same have remained in the actual use and occupation of her personal representatives.

And this defendant, further answering, says that the said Mary Ann Sparkman died on or about the thirteenth day of October, in the year 1866, having first made, published, and declared her last will and testament in due form of law, bearing date on the twentieth day of July, in the year 1866, whereby she gave, devised, and bequeathed unto her executors therein named, and to the survivors and survivor of them,
18 all the estate, real and personal, of whatsoever kind and wheresoever situated, that she might be seized, possessed of, or entitled to at the time of her death, and the rents, issues, and profits thereof, in trust, nevertheless, to invest the same, or the proceeds thereof, in some safe and productive manner, and to collect and receive the whole rents, issues, and profits thereof, and, after paying therefrom all taxes, expenses of making investments, and other cost and charges attending the management of said estate, to use, appropriate, and apply the remainder of said rents, issues, and profits as the same shall be received, to the support and maintenance of this defendant for and during his natural life, and, upon the death of her said husband, to pay and divide the whole of said estate, real and personal, and the proceeds thereof, to and among his children in equal portions, share and share alike, and by which said last will and testament the said testatrix, Mary Ann Sparkman, appointed her brothers James K. Place and Charles Place, and the defendant, James T. Sparkman, executors thereof, which said last will and testament was duly proved as a will of real and personal estate before the surrogate of the county of New York, in the State of New York, in which county the said Mary Ann Sparkman resided at the time of her death, and said last will and testament, after being duly proved as aforesaid, was, on or about the 28th day of November, in the year 1866, duly admitted by said surrogate to probate as a will of real and personal estate, and that, upon the day and year last aforesaid, letters testamentary upon said last will and testament were duly issued and granted by the said surrogate to this defendant, who alone duly qualified as an executor thereof, as by the said last will and testament and letters testamentary, now in the possession of this defendant, will more fully appear upon reference being made thereto, and to which this defendant prays leave to refer if it becomes necessary so to do.

And this defendant, further answering, says that in due course of the administration of the estate of Mary Ann Sparkman and of the execution of the trusts thereby created, said lease and leasehold prem-
19 ises, with the buildings and improvements thereon, were sold to the defendant, John Q. Preble, for the price or sum of sixty thousand dollars, and were conveyed to him by deed of assignment bearing date the twenty-fifth day of October, 1868, and recorded in the said register's office, in liber 1077 of conveyances, page 107; and the said John Q. Preble, in part payment of the consideration-money for said lease and leasehold premises, made, executed, and delivered to this defendant, James T. Sparkman, as executor as aforesaid, his bond conditioned for the payment of the sum of forty thousand dollars, with interest, and, to secure the payment of the said bond, made and executed to this defendant, as executor as aforesaid, a mortgage upon the said leasehold premises, which are the same bond and mortgage mentioned and referred to in the said bill of complaint.

And this defendant, further answering, says that it is not true, and

he therefore denies, that the said assignments to the said James K. Place and Mary Ann Sparkman and the said will of the said Mary Ann Sparkman, any or either of them, were made in pursuance of a design to secure to this defendant the benefit of the said leasehold premises, or any part thereof, or to defraud any of his creditors, whether existing at the time of said assignment or those who should subsequently become such creditors; and he denies that the said assignments were made in fraud or with intent to hinder, delay, or defraud all or any of such creditors.

And this defendant, further answering, says that he believes it to be true, and he therefore admits, that he has been adjudged bankrupt, and that the said complainant has been duly appointed the assignee in bankruptcy of the said James D. Sparkman, and that the estate or effects of the said defendant, James D. Sparkman, have been assigned to him; but this defendant denies that by virtue of any section of the bankrupt-law, or any other means, the said leasehold property mentioned in the said bill of complaint, or any part thereof, or the proceeds of such
20 property, or any part thereof, have ever vested in the said complainant as such assignee in bankruptcy.

And this defendant, further answering, admits that the said James K. Place and this defendant, on the twenty-third day of December, 1876, made a general assignment to Lewis W. Burritt, j'r, and Thomas T. Sheffield of their joint and several property upon the trusts specified and set forth in the bill of complaint.

And this defendent, further answering, says that he is informed, and believes it to be true, and therefore admits, that under and by virtue of said indenture the said Burritt and Sheffield did and do claim, as against the said complainant, that whatever property had been conveyed prior to said assignment by this defendent in fraud of his creditors vested, or that a right of action therefor vested in them, said Burritt and Sheffield, as trustees and assignees as aforesaid, and that thereby there arose a conflict which is still pending and undetermined between the said complainant and the said Burritt and Sheffield as to the title to and right of action for such property, and that the complainant, by his amended bill of complaint in a certain suit in this court in which the said Burritt and Sheffield and this defendant among others are parties defendant, prayed this court to set aside as against him the said assignment to said Burritt and Sheffield.

And this defendant, further answering, says that by an order purporting to be made on the third day of September, 1869, in the action commenced by the said complainant, as assignee in bankruptcy, against the defendant, James D. Sparkman and others, the said complainant was appointed during the pendency of said action, and until the final order, of the court therein, special receiver of all and singular the lands, tenements, real estate, merchandise, goods, chattels, furniture, fixtures, debts, claims, demands, accounts, books of account, agreements, covenants, judgments, bonds, notes, bills receivable, drafts, choses in action, stocks, rights, interests, leases, leasehold premises, and of all
21 property of every kind and description, whether real, personal, or mixed, of whatever kind and wheresoever situated, which are mentioned and referred to in or purported to be assigned, transferred, and conveyed by, or by virtue of, the indenture mentioned in said amended bill of complaint, bearing date the 23d day of December, 1867, made by and between the defendants, James K. Place and James D. Sparkman, of the first part thereto, and the said Lewis W. Burritt, j'r, and Thomas T. Sheffield, of the second part thereto, as to which no

receiver has heretofore been appointed in this cause, and of the proceeds of such parts of the said property, estate, and effects as remain in the hands of the defendants, James K. Place and James D. Sparkman, or the said Lewis W. Burritt, j'r, and Thomas T. Sheffield, or any or either of them, and of all such rights of action, claims, and demands as under color or by the words of said assignment or indenture, or otherwise, purported or appeared, or purport or appear, to have been transferred or conveyed to or vested in said Burritt and Sheffield, under and by virtue of an act of the legislature of the State of New York, passed April 17, 1858, entitled "An act to declare and extend the powers of executors, assignees, receivers, and other trustees, and to protect the rights of creditors and others, against frauds, and for other purposes," or otherwise, and that the said special receiver do have and possess, in respect to the property, estate, and rights of action of which he is so appointed receiver, all the usual powers of such receiver in like cases.

And this defendant, further answering, says that as to whether the said complainant accepted such appointment or duly qualified thereunder, or has entered on the performance of the duties devolved upon him thereby, this defendant does not know and is not informed save by said complainant's said bill of complaint, and cannot set forth as to his belief or otherwise.

22 And this defendant, further answering, says that he is informed, and believes it to be true, and therefore avers, that at the time of the making of said order, in which the same was made, said action was not pending, but before the making of said order had abated by the death of Susan A. Place, one of the defendants thereto, and has not since been revived, wherefore this defendant is advised, and respectfully submits, that no right to recover the said leasehold premises, or any proceeds thereof, has ever become vested in the complainant.

And this defendant claims and insists and avers the fact to be that the title to the said bond and mortgage mentioned in the said bill of complaint, and the right to collect the principal and interest thereof as the same becomes due and payable, is, and ever since the making and delivery of the said bond and mortgage has been, vested in the defendant, James T. Sparkman, as executor as aforesaid, and in no other person or persons whomsoever.

And this defendant, further answering, says that John L. Young and Mary, his wife, Charles Sparkman and Dora Sparkman, and the defendant, James T. Sparkman, are the children of this defendant and said Mary Ann Sparkman, deceased; that they are all living, and he claims and insists that they are necessary parties to this action, and that no order or decree can be made therein until they are made parties thereto, and are brought into this court by its process, or in some other means, according to the rules, course, and practice of this court.

And this defendant prays that he may have the same benefit of the said non-joinder of parties defendants as if he had pleaded the same specially in abatement of this action.

And this defendant, further answering, denies all combination and confederacy charged against him in the said complainant's said bill of complaint, without that that any other matter or thing in the said complainant's said bill of complaint contained not herein and hereby well and sufficiently answered unto, confessed or avoided, traversed

23 or denied, is true, to his knowledge or belief; all which matters and things this defendant is ready to aver, maintain, and prove

as this honorable court shall direct, and prays to be hence dismissed, with his costs and charges most wrongfully sustained.

J. D. SPARKMAN.

J. N. PLATT,
Def't's Solicitor.
THO'S C. T. BUCKLEY,
Of Counsel.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

James D. Sparkman, being duly sworn, deposes and says that he is one of the defendants in the above answer named; that he has read the foregoing answer subscribed by him, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

And further, the matters and things contained and set forth in said answer, so far as they relate to his own act and deeds, are true, and, so far as they relate to the acts and deeds of other persons, he believes them to be strictly true.

J. D. SPARKMAN.

Sworn to this 10th day of , 1870, before me.
GEO. B. MORRIS, JR.
Notary Public, N. Y. Co.

Answer of James T. Sparkman.

This defendant, now and at all times hereafter saving and reserving to himself all benefit and advantage of exception that can or may be had or taken to the many errors, uncertainties, insufficiencies, and imperfections in the said complainant's bill of complaint contained, for answer thereunto, or unto so much and such parts thereof
24 as this defendant is advised is or are material for him to make answer unto, answering, says:

That he is informed, and believes it to be true, and he therefore admits, that prior to the first day of December, in the year 1865, the said bankrupts, James K. Place and James D. Sparkman, were partners with one Ephriam B. Place, in a special or limited partnership, formed pursuant to the laws of the State of New York, under the firm-name of J. K. & E. B. Place, in which partnership the said James D. Sparkman was the special partner and the said James K. Place and Ephraim B. Place were the general partners, and which partnership was dissolved on the thirtieth day of November, 1865.

And this defendant, further answering, says that although at the time of the dissolution of the said partnership they owed a large indebtedness, yet said firm had assets and property in value and amount exceeding the amount of the whole debts and liabilities of the said firm by the sum of six hundred thousand dollars, and that all the debts and liabilities of said firm, except those due Anderson & Co. and Ten Broeck, were paid out of the assets and property of the said firm at the maturity thereof, and were, within six months of the dissolution of the said firm, fully paid and satisfied, and the debts to said Anderson & Ten Broeck were legally discharged, as hereinafter set forth.

And this defendant, further answering, says that while the said firm of J. K. & E. B. Place was in existence, A. S. Anderson & Company, of Buffalo, in the State of New York, and Renssalaer Ten Broeck, of the

city of New York, were in the habit of depositing money with the said firm for safe keeping and as a place of deposit, upon which they were allowed interest, and which moneys so deposited they were entitled to draw at any time, and, as evidence of such deposits, the notes of the said firm were given to the said A. S. Anderson & Company and said Renssalaer Ten Broeck.

That upon the dissolution of the said firm of J. K. & E. B. Place said firm was indebted to the said A. S. Anderson & Company for deposits so made as aforesaid in a sum exceeding thirty thousand dollars, and to the said Rensselaer Ten Broeck, for deposits so made as aforesaid, in a sum exceeding one thousand dollars, for which notes of the said firm had been given as aforesaid. That the said firm of J. K. & E. B. Place was succeeded in its business by the firm of James K. Place & Company, composed of the said bankrupts, which said firm of James K. Place & Company was formed on the first day of December, 1865, and carried on the same business previously carried on by the said J. K. & E. B. Place, at the same place of business, and that the said firm of J. K. & E. B. Place deposited with the said firm of James K. Place & Company money more than sufficient to pay all its said indebtedness to A. S. Anderson & Company and Renssalaer Ten Broeck, with directions to pay said indebtedness, and the said James K. Place & Company agreed with the said J. K. & E. B. Place to pay the whole of said indebtedness to said A. S. Anderson & Company and to the said Renssalaer Ten Broeck with the moneys so deposited as aforesaid, and that shortly after said deposit and agreement the said A. S. Anderson & Company and said Renssalaer Ten Broeck had notice of such deposit, directions, and agreement, and assented thereto, but being desirous of continuing such deposit of their said moneys with said James K. Place & Company in the same manner that they had theretofore had the same on deposit with the said J. K. & E. B. Place, they severally continued their deposit account with the said James K. Place & Company, and continued to deposit and withdraw from the said James K. Place & Company on account of the moneys deposited by them, the said James K. Place & Company, until on or about the twentieth day of November, 1867, when the insolvency of the said firm of James K. Place & Company was publicly announced, and then there remained unpaid to the said A. S. Anderson & Company of the moneys so deposited as aforesaid the sum of thirty thousand
26 dollars or thereabouts, and unpaid to the said Renssalaer Ten Broeck of moneys so deposited as aforesaid the sum of one thousand dollars or thereabouts. That the notes of the said J. K. & E. B. Place given as aforesaid had never been actually taken up or returned, but remained in the actual possession of the said A. S. Anderson & Company and Rensselaer Ten Broeck, and this defendant claims and insists that upon an accounting between the said J. K. & E. B. Place, James K. Place & Company and the said A. S. Anderson & Company and the said Renssalaer Ten Broeck, nothing whatever will be found due from said firm of J. K. & E. B. Place to the said A. S. Anderson & Company and to the said Renssalaer Ten Broeck, and the said notes of the said J. K. & E. B. Place will be found to be fully paid and satisfied.

And this defendant, further answering, says that the said notes of the said J. K. & E. B. Place were not the notes of the said James D. Sparkman, and he was in no wise liable thereupon, or upon any of them, and was in no wise indebted to the said A. S. Anderson & Company and the said Rensselaer Ten Broeck upon said notes, or any or either of

them, by reason of his connection with the said firm of J. K. & E. B. Place, or in any other way or manner whatsoever, except only so far as he became indebted to the said A. S. Anderson & Company and Rensselaer Ten Broeck, as a member of the said firm of James K. Place and Company.

And this defendant, further answering, says that it is not true, and he therefore denies, that the said firm of James K. Place and Company commenced or continued business without other capital than the interests which the said bankrupts then had in the property of the said J. K. & E. B. Place, and that it is not true, and he therefore denies, that the property which at any time belonged to J. K. & E. B. Place passed into the possession of the said James K. Place and Company subject to the debts of the said J. K. & E. B. Place, and that it is not true, and he therefore denies, that the said James K. Place and Company
27 ever began or continued to trade or deal with the assets of J. K. & E. B. Place, or mingled such assets with those of the said James K. Place & Company, undistinguishably or at all, and that it is not true, and he therefore denies, that the said James D. Sparkman ever became liable for the debts of J. K. & E. B. Place, as if he had been a general partner in that firm, or otherwise.

And this defendant, further answering, says that it is true, and he therefore admits, that before the formation of the firm of James K. Place and Company the said James D. Sparkman was the lessee for the term of twenty-one years from May 1st, 1863, with covenants of renewal, of the two lots of land particularly described in the said bill of complaint, and that he held the same under the lease mentioned and referred to in the said bill of complaint.

And this defendant, further answering, says that prior to the first day of December, 1865, that being the time of the actual formation of the said firm of James K. Place and Company, the said James D. Sparkman was, and for a long time prior thereto had been, possessed of ample means, and was and had been worth at least the sum of two hundred and fifty thousand dollars, over and above all his debts and liabilities, and over and above the sum of two hundred thousand dollars to be contributed by him to the capital of James K. Place & Company, and that on and for a considerable time prior to the said first day of December, in the year 1865, the whole of his debts and liabilities did not exceed the sum of ten thousand dollars, exclusive of what bonds he might have had outstanding, amply secured by mortgages on real estate, which said bonds amounted in the aggregate to less than fifty thousand dollars, and, being well advanced in years, he was desirous of making in favor of his wife, Mary A. Sparkman, since deceased, a settlement of a portion of his property, and before the first day of December, 1865, having provided for paying his proportion of the capital to be contributed by him to the
28 firm of James K. Place & Company, which was paid in by him on the said first day of December, 1865, he directed his counsel to take the proper steps to secure to his said wife from his then remaining existing property the sum of one hundred thousand dollars, or thereabouts, and that the specific items of his property intended by him at that time to be so disposed, were forty thousand dollars of Government securities, being seven-thirty and five-twenty bonds of the United States, and the leasehold premises in Forty-second and Forty-third streets, mentioned and described in the said bill of complaint, on which he had erected a dwelling-house and stable, which constituted the family residence, and which were worth between forty and fifty thousand dollars, and also the furniture, horses, and carriages then in use by him therein,

and in performance of such desire and direction, and for the purpose of vesting the title in and to said leasehold premises, and the buildidgs and improvements thereon, in his said wife, through the usual channel of a third person, he, the said James D. Sparkman, prior to the first day of December, in the year 1865, made and executed a deed dated the ninth day of November, in the year 1865, and recorded in the register's office of the city and county of New York, on the ninth day of December, 1865, in liber 955 of conveyances, page 205, whereby he assigned and conveyed to James K. Place, the brother of his said wife, the said lease and leasehold premises and term of years therein, with the buildings and improvements thereon, and by deed bearing date the first day of December, 1865, made and delivered by the said James K. Place, and recorded in said register's office, in liber 955 of conveyances, page 206, December 9, 1865, the said James K. Place made and assigned to the said Mary Ann Sparkman, the wife of the said James D. Sparkman, the said lease and leasehold premises, and the term of years therein, with the buildings and improvements thereon, which are the same deeds mentioned and referred to in the said bill of complaint.

29 And the said defendant, further answering, says that it is not true, and he therefore denies, that the said deeds of conveyance, or either of them, were made in contemplation of the liabilities which the said James D. Sparkman was about to incur as a member of the firm of James K. Place & Company, or of any existing liabilities of said firm of J. K. & E. B. Place, or to throw off from said land and leasehold premises any liabilities for debts then existing, or for losses which might thereaftey happen to said James D. Sparkman in business or otherwise.

And this defendant, further answering, says that it is not true, and he therefore denies, that said conveyances and assignments, or either of them, were made by the said James D. Sparkman with intent to hinder, delay, or defraud his creditors.

And this defendant, further answering, says that it is not true, and he therefore denies, that after the making of the said deeds of assignment of the said lease and leasehold premises aforesaid the said James D. Sparkman continued in the actual use and occupation of the said premises thereby conveyed, or that he continued in the use or occupation thereof until in or about the month of October, 1868, but, on the contrary thereof, immediately after the execution of the said deeds of assignment, the said Mary Ann Sparkman entered into the actual use and occupation of the premises thereby conveyed, and continued in such use and occupation until her death, and since her death, and until the same were sold by this defendant, as executor of her last will and testament, the same have remained in the actual use and occupation of her personal representatives.

And this defendant, further answering, says that the said Mary Ann Sparkman died on or about the thirteenth of October, in the year 1866, having first made, published, and declared her last will and testament in due form of law, bearing date on the twentieth day of July, in the year 1866, whereby she gave, devised, and bequeathed unto her executors therein named, and to the survivors and survivor

30 of them, all the estate, real and personal, of whatever kind or wheresoever situated, that she might be seized, possessed of, or entitled to at the time of her death, and the rents, issues, and profits thereof, in trust, nevertheless, to invest the same, or the proceeds thereof, in some safe and productive manner, and to collect and receive the whole rents, issues, and profits thereof, and, after paying therefrom all taxes, expenses of making investments, and all other costs and

charges attending the management of said estate, to use, appropriate, and apply the remainder of said rents, issues, and profits as the same shall be received to the support and maintainance of her husband, James D. Sparkman, for and during his natural life, and upon the death of her said husband, James D. Sparkman, to pay and divide the whole of said estate, real and personal, and the proceeds thereof, to and among his children in equal portions, share and share alike, and by which said last will and testament the said testatrix, Mary Ann Sparkman, appointed her brothers, James K. Place and Charles Place, and this defendant, executors thereof; which said last will and testament was duly proved as a will of real and personal estate before the surrogate of the county of New York, in the State of New York, in which county the said Mary Ann Sparkman resided at the time of her death; and said last will and testament, after being duly proved as aforesaid, was, on or about the 28th day of November, in the year 1866, duly admitted by said surrogate to probate as a will of real and personal estate; and that upon the day and year last aforesaid letters testamentary upon said last will and testament were duly issued and granted by the said surrogate to this defendant, who alone duly qualified as an executor thereof, as by the said last will and testament, and letters testamentary, now in possession of this defendant, will more fully appear upon reference being made thereto, and to which this defendant prays leave to refer, if it becomes necessary so to do.

31 And this defendant, further answering, says that in due course of the administration of the estate of Mary Ann Sparkman, and of the execution of the trusts thereby created, he sold said lease and leasehold premises, and the buildings and improvements thereon, to the defendant, John Q. Preble, for the price or sum of sixty thousand dollars, and he conveyed the same to him by deed of assignment, bearing date the twenty-fifth day of October, 1868, and recorded in the said register's office, in liber 1077 of conveyances, page 107; and the said John Q. Preble, in part payment of the consideration money for said lease and leasehold premises, made, executed, and delivered to this defendant, as aforesaid, his bond, conditioned for the payment of the sum of forty thousand dollars, with interest, and, to secure the payment of the said bond, made and executed, to this defendant as executor as aforesaid, a mortgage upon the said leasehold premises, which are the same bond and mortgage mentioned and referred to in the said bill of complaint.

And this defendant, further answering, says that it is not true, and he therefore denies that the said assignments to the said James K. Place and Mary Ann Sparkman, and the said will of the said Mary Ann Sparkman, any or either of them, were made in pursuance of a design to secure to the said James D. Sparkman the benefit of the said leasehold premises or any part thereof, or to defraud any creditors of the said James D. Sparkman, whether existing at the time of said assignment, or those who should subsequently become such creditors; and he denies that the said assignments were made in fraud of or with intent to hinder, delay, or defraud all or any of such creditors.

And this defendant, further answering, says that he believes it to be true, and he therefore admits that the said James D. Sparkman has been adjudged bankrupt, but he does not know and has not been informed, save by the said bill of complaint, and cannot set forth as to his belief or otherwise as to whether the said complainant has been duly appointed the assignee in bankruptcy of the said James D. Sparkman, or as

32 to whether any estate or effects of the said defendant, James D. Sparkman, have ever been assigned to him; and this defendant denies that by virtue of any section of the bankrupt law or any other means, the said leasehold property mentioned in the said bill of complaint, or any part thereof, or the proceeds of such property or any part thereof, have ever vested in the said complaina't as such assignee in bankruptcy.

And this defendant, further answering, admits that the said James K. Place, and said defendant, James D. Sparkman, on the twenty-third day of December, 1867, made a general assignment to Lewis W. Burritt, j'r, and Thomas T. Sheffield, of their joint and several property upon the trusts specified and set forth in the bill of complaint.

And this defendant, further answering, says that he is informed and believes it to be true, and therefore admits that, under and by virtue of said indenture, the said Burritt & Sheffield did and do claim, as against the said complainant, that whatever property had been conveyed prior to said assignment, by said James D. Sparkman, in fraud of his creditors vested, or that a right of action therefor vested in them, said Burritt & Sheffield, as trustees and assignees as aforesaid; and that thereby there arose a conflict which is still pending and undetermined between the said complainant and the said Burritt & Sheffield, as to the title to and right of action for such property; and that the complainant by his amended bill of complaint in a certain suit in this court, in which the said Burritt & Sheffield and this defendant, among others, are parties defendant, prayed this court to set aside, as against him, the said assignment to said Burritt & Sheffield.

And this defendant, further answering, says that by an order purporting to be made on the third day of September, 1869, in the action commenced by the said complainant, as assignee in bankruptcy, against the defendant, James D. Sparkman, and others, the said complainant

33 was appointed during the pendency of said action, and until the final order of the court therein, special receiver of all and singular the lands, tenements, real estate, merchandise, goods, chattels, furniture, fixtures, debts, claims, demands, accounts, books of account, agreements, covenants, judgments, bonds, notes, bills receivable, drafts, choses in action, stocks, rights, interests, leases, leasehold premises, and of all property of every kind and description, whether real, personal, or mixed, of whatever kind and wheresoever situated, which are mentioned and referred to in, or purport to be assigned, transferred, and conveyed by or by virtue of the indenture mentioned in said amended bill of complaint bearing date the 23d day of December, 1867, made by and between the defendants, James K. Place and James D. Sparkman, of the first part thereto, and the said Lewis W. Burritt, j'r, and Thomas T. Sheffield, of the second part thereto, as to which no receiver has heretofore been appointed in this cause, and of the proceeds of such parts of the said property, estate, and effects as remain in the hands of the defendants, James K. Place and James D. Sparkman, or the said Lewis W. Burritt, j'r, and Thomas T. Sheffield, or any or either of them, and of all such rights of action, claims, and demands as under color or by the words of said assignment or indenture, or otherwise purported or appeared, or purport or appear to have been transferred or conveyed to or vested in said Burritt & Sheffield, under and by virtue of an act of the legislature of the State of New York, passed April 17, 1858, entitled "An act to declare and extend the powers of executors, assignees, receivers, and other trustees, and to protect the rights of creditors and others against frauds, and for other purposes," or otherwise, and that the said special receiver do have and

possess in respect to the property, estate, and rights of action of which he is so appointed receiver, all the usual powers of such receiver in like cases.

And this defendant, further answering, says that as to whether the said complainant accepted such appointment or duly qualified
34 thereunder, or has entered on the performance of the duties devolved on him thereby, this defendant does not know, and is not informed save by said complainant's said bill of complaint, and cannot set forth as to his belief or otherwise.

And this defendant, further answering, says that he is informed and believes it true, and therefore avers, that at the time of the making of said order in which the same was made, said action was not pending, but before the making of said order had abated, by the death of Susan A. Place, one of the defendants thereto, and has not since been revived; wherefore this defendant is advised, and respectfully submits, that no right to recover the said leasehold premises, or any proceeds thereof, has ever become vested in the complainant.

And this defendant claims and insists, and avers the fact to be, that the title to the said bond and mortgage mentioned in the said bill of complaint, and the right to collect the principal and interest thereof as the same becomes due and payable, is, and ever since the making and delivery of the said bond and mortgage has been, vested in this defendant, as executor as aforesaid, and in no other person or persons whomsoever.

And this defendant, further answering, says that John L. Young and Mary his wife, Charles Sparkman and Dora Sparkman, which said Mary, Charles, Dora, and this defendant are the children of the said James D. Sparkman, are all living, and he claims and insists that they are necessary parties to this action, and that no order or decree can be made therein until they are made parties thereto, and are brought into this court by its process, or in some other means, according to the rules, course, and practice of this court.

And this defendant prays that he may have the same benefit of the said non-joinder of parties defendant as if he had plead the same specially in abatement of this action.

And this defendant, further answering, denies all combination and confederacy charged against him in the said complainant's said
35 bill of complaint, without that *that* any other matter or thing in the said complainant's said bill of complaint contained, not herein and hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true to his knowledge or belief, all which matters and things this defendant is ready to aver, maintain, and prove, as this honorable court shall direct, and prays to be hence dismissed with his costs and charges most wrongfully sustained.

JAS. T. SPARKMAN.

J. N. PLATT,
Sol'r for Defend't.
THOS. C. T. BUCKLEY,
Of Counsel.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

James T. Sparkman, being duly sworn, deposes and says, that he is one of the defendants in the above answer named; that he has read the foregoing answer subscribed by him and knows the contents thereof, and that the same is true of his own knowledge except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

And further, the matters and things contained and set forth in said answer, so far as they relate to his own acts and deeds, are true, and so far as they relate to the acts and deeds of other persons, he believes them to be strictly true.

JAS. T. SPARKMAN.

Sworn to this 12th day of October, 1869, before me.

THOMAS N. McCARTHY,
Notary Public, N. Y. County.

General replications were put in to the above answers.

36 EXHIBIT 1.

Lease—Hoffman to Sparkman.

[U. S. int. rev. stamp one dollar.]

This indenture, made this fourteenth day of March, in the year of our Lord one thousand eight hundred and sixty-three, between Gloverina R. Hoffman, wife of Samuel V. Hoffman, and the said Samuel V. Hoffman, of the city of New York, of the first part, and James D. Sparkman, of the city of Brooklyn, county of Kings, party of the second part, witnesseth:

That the said parties of the first part, in consideration of the rents and covenants hereinafter reserved and contained on the part and behalf of the said party of the second part, his executors, administrators, and assigns, to be paid, kept, and performed, have granted, demised, and to farm let, and by these presents do grant, demise, and to farm let unto the party of the second part all those two certain lots of land situate, lying and being in the nineteenth ward of the city of New York, being part of the lands of the said parties of the first part, which two lots adjoin each other in the rear thereof, one of which is situate on the northerly side of Forty-second street, between the Fifth and Sixth avenues, and the other of which is situate on the southerly side of Forty-third street, between the Fifth and Sixth avenues, each lot being twenty-five feet wide, front and rear, and one hundred feet and five inches in depth on each side, and which said two lots taken together are bounded and described as follows: Beginning at a point on the northerly side of Forty-second street, distant three hundred and seventy-five feet from the westerly line of the Fifth avenue; running thence northerly and parallel with the Fifth avenue two hundred feet and ten inches to the southerly side of Forty-third street; thence westerly along the southerly side of Forty-third street twenty-five feet; thence southerly parallel with the Fifth avenue two hundred feet and ten inches to the northerly side of Forty-second street; and thence easterly along the northerly side of Forty-second street twenty-five feet, to the place of beginning: To have and to hold the said lots of land unto the said party of the second part, his executors, administrators, and assigns, from the first day of May, in the year of our Lord one thousand eight hundred and sixty-three, for and during and until the full end and term of twenty-
37 one years from thence next ensuing and fully to be complete and ended, yielding, rendering, and paying for the same unto the said parties of the first part, or to their heirs or assigns, during the said term, the rent or sum of seven hundred dollars, lawful money of the State of New York, yearly, and every year, in two equal half-yearly payments, to be made on the first days of November and May in each and every year: Provided always, that if it shall happen that the said yearly rent, or any part thereof, shall be behind and unpaid for the space of ten days

after any day of payment on which the same ought to be paid as aforesaid, then, and at all times thereafter, it shall and may be lawful for the said parties of the first part, their heirs and assigns, into the said demised premises, or any part thereof, in the name of the whole, to re-enter, and to repossess, have, and enjoy the same again as of their former estate and interest therein, anything herein contained to the contrary in anywise notwithstanding.

And the said party of the second part, for himself, his executors, administrators, and assigns, doth, by these presents, hereby covenant and grant to and with the said parties of the first part, their heirs and assigns, in manner following, that is to say:

First. That the said party of the second part, his executors, administrators, and assigns, shall and will, during the term hereby demised, well and truly pay unto the said parties of the first part, their heirs and assigns, the said yearly rent hereby reserved at the days and times hereinbefore limited for the payment thereof, without fraud or delay.

Secondly. That he, the said party of the second part, his executors, administrators, or assigns, shall and will, at his and their own proper costs and charges, bear, pay, and discharge all such duties, taxes, croton-water charges, assessments, and payments of what nature and kind soever as shall, during the term hereby demised, be imposed on or grow due or payable out of or for or by reason of the said demised premises, or any part or parcel thereof.

Thirdly. That he, the said party of the second part, his executors, administrators, or assigns, shall and will, during the term aforesaid, at his and their own proper costs and charges, well and sufficiently level and pave such part of the street or streets on which the said lots are bounded, and to the middle thereof, including the sidewalk or walks in front of the said lots, in such sufficient and proper manner as the mayor,
38 aldermen, and com'onalty of the city of New York shall from time to time order and direct.

Fourthly. That he, the said party of the second part, his executors, administrators, or assigns, or any of them, shall not nor will at any time or times hereafter, during the continuance of the term hereby granted, lease, let, or demise all or any part of the premises hereby granted, nor assign, transfer, or make over the same or this present lease, or any portion of said term or time therein, to any person or persons whomsoever, without the consent of the said parties of the first part in writing, under their seal for that purpose first had and obtained, anything herein contained to the contrary notwithstanding.

And, lastly, that he, the said party of the second part, his executors, administrators, or assigns, or some or one of them, shall and will, on the last day of the term hereby demised or other sooner determination of the estate hereby granted, well and truly deliver up the said hereby-demised premises, within good and sufficient fence, into the possession of the said parties of the first part, their heirs or assigns, without fraud or delay. Provided further, and this present lease is upon this further condition, that if the said party of the second part, his executors, administrators, or assigns, shall at any time during the term hereby granted, lease, let, or demise all or any part of the premises hereby demised, or assign, transfer, or make over the same, or this present lease, or any portion of the term or terms therein, to any person or persons whomsoever, without the leave and consent of the said parties of the first part, or their heirs, in writing, under their seal, for that purpose first had and obtained, or shall at any time hereafter during the term hereby granted erect, make, establish, or carry on, or cause or suffer to be erected, made,

established, or carried on in any manner, on any part of the above-described and hereby-demised premises any livery or cattle stable, slaughter-house, tallow-chandlery, steam-engine, smith-shop, forge, furnace, brass-foundry, nail or other iron factory, or any manufactory for the making of glass, starch, glue, varnish, vitriol, ink, or turpentine, or for the tanning, dressing, preparing, or keeping of skins, hides, or leather, or any brewery, distillery, sugar-bakery, or any theatre, opera-house, or menagerie, or any public show or exhibition of animals, or other public show or spectacle, or any manufactory, trade, business, or occupation whatever which may be in any wise noxious or offensive to the neighboring inhabitants, or shall fail in the performance of any or either of the covenants, conditions, or provisos in these presents contained, which on the part and behalf of the said party of the second part, his executors, administrators, or assigns, are or ought to be observed, performed, fulfilled, and kept, then and at all times thereafter it shall and may be lawful for the said parties of the first part, their heirs and assigns, into the said demised premises or any part thereof to re-enter, and repossess, have, and enjoy the same again as of their former estate and interest therein, anything herein contained to the contrary in any wise notwithstanding.

And it is hereby mutually covenanted and agreed by and between the parties to these presents, that if the said party of the second part, his executors, administrators, or assigns, shall at any time during the first term hereby demised erect and build upon the said lots of land a good and substantial dwelling-house, being three stories or more in height above the basement, and constructed of brick or stone, and otherwise constructed as shall be required by law in respect to houses situate within the fire-limits of the said city, and shall not at any time during the said term erect or suffer to be erected on the said lots any building constructed otherwise than as shall be required by law in respect to buildings within such fire-limits, and shall, during the whole of the said term, well and faithfully keep all and every the covenants and agreements herein contained on his and their part and behalf, then the said parties of the first part, their heirs or assigns, shall and will, at the expiration of the said term, either pay to the said party of the second part, his executors, administrators, or assigns, the just and full value at that time of the said house, to be ascertained in the manner hereinafter mentioned, or grant a new lease of the said lots to the said party of the second part, his executors, administrators, or assigns, at his or their expense, for a further term of twenty-one years, to commence from the expiration of the term hereby granted, at and for a reasonable yearly rent, payable half-yearly, and to be ascertained as is hereinafter mentioned, but not to be less than the yearly rent reserved by these presents, exclusive of all taxes and assessments, which also the lessee's are to covenant to pay, which second lease, if the said parties of the first part shall elect to grant the same, shall contain the like covenants, agreements, and conditions as are hereinbefore contained, except that in lieu of that part of the agreement above contained, which, in case of the erection of such dwelling-house as is above described, provides at the expiration of the said term for the payment of the appraised value thereof, or for the removal of the said lease, it shall contain a covenant on the part of the said parties of the first part, that in case there shall, at the expiration of the second term, be standing on the said demised premises a good and substantial dwelling-house, being three stories or more in height, and otherwise constructed in the manner hereinbefore specified, the said parties of the first part, their heirs or assigns, shall

and will grant one further lease of the said lots, to and at the like expense of the said party of the second part, his executors, administrators, or assigns, for the further term of twenty-one years, from and after the expiration of the said second term, and at a yearly rent to be ascertained in like manner, but not less than the yearly rent reserved during such second term, and all taxes and assessments; or for the payment of the just and full value of such dwelling-house, to be ascertained in like manner, in case the said parties of the first part, their heirs or assigns, shall not agree to such further renewal, such third lease to contain the like covenants, agreements, and conditions as shall be contained in the said second lease, except as to any further renewal of the said term, and as to the payment of the just and full value of the dwelling-house, which at the expiration of the said third term may be standing on the said lots, in lieu of which there shall be inserted and contained a covenant on the part of the said parties of the first part, their heirs and assigns, declaring and providing that the said party of the second part, his executors, administrators, or assigns, having duly kept and performed all and every the covenants and agreements to be contained in such third lease on his and their part and behalf, may, at the end of such third term, or within twenty days thereafter, take down, remove, and carry away all such building or buildings, and the materials thereof, as may be then standing on the said demised premises, fences only excepted.

And in order to ascertain the value of any such house as may at any time be erected on the said demised premises, in manner aforesaid, or what augmentation of rent, if any, should take place in case of granting any such new lease, it is further mutually agreed by and between the said parties to these presents, that in each and every of the cases above specified in
41 which it shall be necessary to ascertain the sum which the said parties of the first part, their heirs or assigns, ought to pay to the said party of the second part, his executors, administrators, or assigns, in respect to the value of any such house as is above mentioned, or the amount of rent which ought to be reserved and made payable on any such new lease of the said hereby-demised premises as is above mentioned, the value of such house and the amount of such rent shall be ascertained and determined as follows, that is to say: the said parties of the first part, their heirs or assigns, shall nominate one fit and impartial person, and the said party of the second part, his executors, administrators, or assigns, shall nominate one fit and impartial person, to value such house in its then actual condition, and also to determine the full and fair worth of said lots of land at private sale, which nominations shall be made and signified by each party to the other at least one month before the expiration of the then current term; and in default of such nomination by either party for the space of fifteen days after the time above limited for the making of the same, the person who shall have been so nominated by the other party shall appoint and associate with himself one other fit and impartial person for the purposes aforesaid; and if the two persons to be so nominated or appointed shall differ in judgment as to either of said subjects, they shall appoint a fit and impartial person to be umpire between them, if they can agree on such person, or if they cannot so agree, then each of them shall nominate two fit and impartial persons, and from the names of the four persons so nominated that of one shall be drawn by ballot, who shall be such umpire; and the decision of such two persons, or, in case of their disagreement, of the said umpire, whether as to the value of the said house or as to the value of said lot, shall in all cases be final and conclusive, and in every such case of renewal the rent to be reserved thereon. The

rent shall be estimated for the lot alone, without making any addition for or on account of the buildings which may be so erected by the said party of the second part, his executors, administrators, or assigns, and five per cent. on such estimated value of said lots shall be the annual rent to be reserved in the new lease during the further term to be thereby granted.

In witness whereof, to one part of these presents, remaining with the said parties of the first part, the said party of the second part hath
42 put his hand and seals, and to the other part thereof, remaining with the said party of the second part, the said parties of the first part have put their hands and seals the day and year first above written.

G. R. HOFFMAN. [L. S.]
S. V. HOFFMAN. [L. S.]
JAMES D. SPARKMAN. [L. S.]

Sealed and delivered in presence of—
GILBERT O. F. NICOLL.

CITY AND COUNTY OF NEW YORK, *ss:*

On this seventeenth day of March, in the year one thousand eight hundred and sixty-three, before me personally came Gloverina R. Hoffman, wife of Samuel V. Hoffman, and the said Samuel V. Hoffman, to me known to be the individuals described in and who executed the aforegoing instrument, and severally acknowledged that they executed the same. And the said Gloverina R. acknowledged, on a private examination by me, made apart from her said husband, that she executed the said instrument freely, and without any fear or compulsion of him.

GILBERT O. F. NICOLL,
Notary Public.

CITY AND COUNTY OF NEW YORK, *ss:*

On this eighteenth day of March, in the year one thousand eight hundred and sixty-three, before me personally came James D. Sparkman, to me known to be the individual described in and who executed the aforegoing instrument, and acknowledged that he executed the same for the purposes therein mentioned.

GILBERT O. F. NICOLL,
Notary Public.

OFFICE OF THE REGISTER OF DEEDS, &C.,
City and County of New York, ss:

I have compared the annexed copy with an instrument recorded in this office on the 18th day of March, A. D. 1863, at 2 o'clock 5 min. p. m., in liber 876 of con's, p. 22, and certify the same to be a correct transcript therefrom, and the whole of said instrument.

In testimony whereof I have hereunto subscribed my name and affixed my official seal this 2d day of June, 1870.

[SEAL.] MICHAEL CONNOLLY,
Register.

43 EXHIBIT 2.

Assignment.—Sparkman to Place.

[U. S. int. rev. stamp, $1.50.]

Know all men by these presents that I, James D. Sparkman, of the city of New York, for and in consideration of the sum of fifteen thousand dollars, lawful money of the United States, to me duly paid by

James K. Place, have sold, and by these presents do grant, convey, assign, transfer, and set over unto the said James K. Place an indenture of lease bearing date the fourteenth day of March, in the year one thousand eight hundred and sixty-three, made by Gloverina R. Hoffman, wife of Samuel V. Hoffman, to me the said James D. Sparkman, for the term of twenty-one years from the first day of May in the year 1863, at the yearly rent of seven hundred dollars, and recorded in the office of the register of the city and county of New York, in liber 876 of conveyances, page 22, March 18, 1863. Together with all and singular the premises therein mentioned and described, and the buildings thereon, together with the appurtenances; to have and to hold the same unto the said James K. Place, his executors, administrators, and assigns, from the thirtieth day of November, for and during all the rest, residue, and remainder yet to come of and in the term of twenty-one years mentioned in the said indenture of lease, subject to the rents, covenants, conditions, and provisions therein also mentioned.

And I do hereby covenant, grant, promise, and agree to and with the said James K. Place that the said assigned premises now are free and clear of and from all former and other gifts, grants, bargains, sales, leases, judgments, executions, back rents, taxes, assessments, and incumbrances whatsoever

In witness whereof I have hereunto set my hand and seal this thirtieth day of November, one thousand eight hundred and sixty-five.

JAMES D. SPARKMAN. [L. S.]

Sealed and delivered in the presence of—
JAMES J. CAMPBELL.

STATE OF NEW YORK,
City and County of New York, ss:

On this fifth day of December, in the year one thousand eight hundred and sixty-five, before me personally came James D. Sparkman, to me known to be the same person described in and who executed the within assignment, and duly acknowledged that he executed the same.

J. J. CAMPBELL,
Notary Public, N. Y. County.

OFFICE OF THE REGISTER OF DEEDS, &C.,
City and County of New York, ss:

I have compared the annexed copy with an instrument recorded in this office, on the 9th day of December, A. D. 1865, at 2 o'clock 45 minutes p. m., in liber 955 of conveyances, page 205, and certify the same to be a correct transcript therefrom, and the whole of said instrument.

In testimony whereof I have hereunto subscribed my name and affixed my official seal this 2d day of June, 1870.

[L. S.] MICHAEL CONNOLLY, *Register.*

EXHIBIT 3.

Assignment—Place to M'r's Sparkman.

[U. S. int. rev. stamp, one dollar and fifty cts.]

Know all men by these presents that I, James K. Place, of the city of New York, for and in consideration of the sum of fifteen thousand dollars, lawful money of the United States, to me duly paid by Mary

Ann Sparkman, wife of James D. Sparkman, have sold, and by these presents do grant, convey, assign, transfer, and set over unto the said Mary Ann Sparkman a certain indenture of lease, bearing date the fourteenth day of March, in the year one thousand eight hundred and sixty-three, made by Gloverina R. Hoffman, wife of Samuel V. Hoffman, and the said Samuel V. Hoffman to James D. Sparkman, for the term of twenty-one years from the first day of May, in the year 1863, at the yearly rent of seven hundred dollars, and recorded in the office of the register of the city and county of New York, in liber 876 of conveyances, page 22, March 18, 1863, and by the said James D. Sparkman assigned to me, the said James K. Place, by assignment in writing bearing date the 30th day of November, in the year 1865, to-
45 gether with all and singular the premises therein mentioned and described, and the buildings thereon, together with the appurtenances; to have and to hold the same unto the said Mary Ann Sparkman, her executors, administrators, and assigns, from the first day of December, 1865, for and during all the rest, residue, and remainder yet to come of and in the term of twenty-one years mentioned in the said indenture of lease, subject nevertheless to the rents, covenants, conditions, and provisions therein also mentioned.

And I do hereby covenant, grant, promise, and agree, to and with the said Mary Ann Sparkman, that the said assigned premises now are free and clear of and from all former and other gifts, grants, bargains, sales, leases, judgments, executions, back rents, taxes, assessments, and incumbrances whatsoever.

In witness whereof I have hereunto set my hand and seal this first day of December, one thousand eight hundred and sixty-five.

JAMES K. PLACE. [L. S.]

Sealed and delivered in the presence of—
JAMES J. CAMPBELL.

STATE OF NEW YORK,
City and County of New York, ss:

On this fifth day of December, in the year one thousand eight hundred and sixty-five, before me personally came James K. Place, to me known to be the same person described in and who executed the within assignment, and duly acknowledged that he executed the same.

JAMES J. CAMPBELL,
Notary Public, N. Y. County.

OFFICE OF THE REGISTER OF DEEDS, &C.,
City and County of New York, ss:

I have compared the annexed copy with an instrument recorded in this office on the 9th day of December, A. D. 1865, at 2 o'clock 46 min's p. m., in liber 955 of conveyances, page 206, and certify the same to be a correct transcript therefrom, and the whole of said instrument.

In testimony whereof I have hereunto subscribed my name and affixed my official seal this 2d day of June, 1870.

[L. S.] MICHAEL CONNOLLY, *Register.*

46 EXHIBIT 4.

Will of M'r's Sparkman.

[U. S. int. rev. stamp, $50.]

Know all men by these presents that I, Mary Ann Sparkman, of the city of New York, have made, published, and declared, and by these

presents do make, publish, and declare my last will and testament in manner and form following, that is to say:

I give, devise, and bequeath unto my executors hereinafter named, and the survivors and survivor of them, all the estate, real and personal, of whatsoever kind or wheresoever situated, that I may be seized, possessed of, or entitled to at the time of my death, and the rents, issues, and profits thereof, in trust, nevertheless, and for the uses and purposes following, that is to say: To invest the same or the proceeds thereof in some safe and productive manner, retaining any investments made in my life-time that they may deem proper, and from time to time to change any investments made by me in my life-time or that shall be made by them, and to collect and receive the whole rents, issues, and profits thereof of my said estate, real and personal, and of the proceeds thereof, and, after paying therefrom all taxes, expenses of making investments, and other costs and charges attending the management of my said estate, to use, apply, and appropriate the remainder of said rents, issues, and profits, as the same shall be received, to the support and maintenance of my beloved husband, James D. Sparkman, for and during his natural life, expending annually for his said support and maintenance the whole of the said remainder of said rents, issues, and profits, and the said provision for my said husband to be free and clear of and from any and all claims of his creditors. Upon the death of my said husband, James D. Sparkman, to pay and divide the whole of my said estate, real and personal, and the proceeds thereof, to and among his children in equal portions, share and share alike, and if either of his children shall depart this life in the life-time of my said husband, leaving a child or children him or her surviving, the share or portion of the child so dying to be paid to his or her child or children.

I hereby authorize and empower my said executor to sell and convey any real estate that I may be seized or possessed of at the time of my death.

47 I hereby nominate, constitute, and appoint my brothers, James K. Place and Charles Place, and my stepson, James T. Sparkman, executors of my last will and testament, hereby revoking and annulling all other and former wills by me made.

In witness whereof I have hereunto set my hand and seal this twentieth day of July, in the year one thousand eight hundred and sixty-six.

MARY A. SPARKMAN. [L. S.]

Signed, sealed, published, and declared by the said testatrix, as and for her last will and testament, in our presence, who, at her request, in her presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

M'R'S AMELIA A. VERMILYA,
Cor. 125th street, 3d avenue, Harlem, N. Y.
MARY JOYCE, 33 *Livingston street, Brooklyn, L. I., New York.*

STATE AND COUNTY OF NEW YORK,
Surrogate's Office, ss:

I, Morgan A. Dayton, jr, clerk to the surrogate's court of said county, do hereby certify that I have compared the foregoing copy of the last will and testament of Mary Ann Sparkman, deceased, with the original record thereof, now remaining in this office, and have found the same to be a correct transcript therefrom, and of the whole of said original record.

In testimony whereof I have hereunto set my hand and affixed the seal of office of said surrogate, this 29th day of September, in the year of our Lord one thousand eight hundred and seventy.

[SEAL.] MORGAN A. DAYTON, J'R,
Clerk to the Surrogate's Court.

[U. S. int. rev., cancelled, 5c.]

EXHIBIT 5.

Letters testamentary to J. T. Sparkman.

The people of the State of New York to all to whom these presents shall come or may concern, send greeting:

48 Know ye that at the county of New York, on the twenty-eighth day of November, in the year of our Lord one thousand eight hundred and sixty-six, before Gideon J. Tucker, esq., surrogate of our said county, the last will and testament of Mary A. Sparkman, deceased, was proved and is now approved and allowed by us; and the said Mary A. Sparkman, being at or immediately previous to her death an inhabitant of the county of New York, by means whereof the proving and registering said will and the granting administration of all and singular the goods, chattels, and credits of the said testatrix, and also the auditing, allowing, and final discharging the account thereof, doth belong unto us; the administration of all and singular the goods, chattels, and credits of the said deceased, and any way concerning her will, is granted unto James T. Sparkman, of the city of New York, sole executor in the said will named, he being first duly sworn faithfully and honestly to discharge the duties of such executor.

In testimony whereof we have caused the seal of office of our said surrogate to be hereunto annexed.

Witness Gideon J. Tucker, esq., surrogate of our said county, at the city of New York, the 28th day of November, in the year of our Lord one thousand eight hundred and sixty six, and of our Independence the ninety-first.

[L. S.] GIDEON J. TUCKER,
Surrogate.

STATE AND COUNTY OF NEW YORK,
Surrogate's Office, ss:

I, Morgan A. Dayton, j'r, clerk to the surrogate's court of said county, do hereby certify that I have compared the foregoing copy of the letters testamentary granted in the matter of the estate of Mary A. Sparkman, deceased, with the original record thereof now remaining in this office, and have found the same to be a correct transcript therefrom, and of the whole of said original record.

In testimony whereof I have hereunto set my hand and affixed the seal of office of said surrogate, this 7th day of October, in the year of our Lord one thousand eight hundred and seventy.

[L. S.] MORGAN A. DAYTON, J'R,
Clerk to the Surrogate's Court.

[U. S. int. rev. stamp, 5 c'ts, cancelled.]

49 William B. Nassau, called and sworn as a witness on the part of plaintiff, deposes and says as follows:

I am employed in business by the plaintiff in this cause and his solic-

itor. About a year ago, or more, I saw on the files of the surrogate's court of the city and county of New York a paper purporting to be an inventory of the personal estate of Mary Ann Sparkman; that paper was produced in evidence by M'r William H. Douglass, then a clerk in said surrogate's court, in a suit then pending in the United States circuit court for this district, and a copy of it was taken and marked as an exhibit, and the original taken away by M'r Douglass. Within the two or three months now last past I have, with the aid and assistance of a clerk in said surrogate's court, searched the files of said surrogate's court in order to find such paper, but have not been able to find the same, and the same has been, as I verily believe, lost or mislaid.

I was informed by Alexander H. Wallis, esq., that the original of such paper was in the possession of him, (M'r Wallis,) and that he (M'r Wallis) was ready to produce the same; and thereupon M'r Wallis handed to me a paper, of which a copy is hereto annexed, marked "Exhibit 5a." The original of said exhibit is attached to a deposition made by me in an action pending in this court, between John Sedgwick, as assignee, plaintiff, and James K. Place and others, defendants, which deposition, with said original attached, has been filed in the office of the clerk of this court.

I have seen James T. Sparkman write, and know his handwriting. The signature, "James T. Sparkman," on the affidavit forming part of the original of said exhibit, such affidavit purporting to have been sworn to December 2nd, 1867, before James J. Campbell, notary public, is, in my opinion, in the handwriting of the said James T. Sparkman.

W'M B. NASSAU.

Sworn to before me this 8th day of October, 1870.

R. E. STILWELL,
Special Examiner, &c.

EXHIBIT 6.

Inventory of M'r's Sparkman's estate.

To all persons interested in the estate of Mary Ann Sparkman,
50 deceased, as legatees, next of kin, or otherwise, notice is hereby given that the executor of the estate of said deceased, with the aid of appraisers for that purpose, duly appointed by the surrogate of the county of New York, will, on the 2nd day of December next, at 9 o'clock in the forenoon of that day, at No. 27 West 42nd street, in the city of New York, in said county, proceed to make an inventory and appraisement of all the goods, chattels, and credits of said deceased.

Dated this 27th day of November, 1867.

JAMES. T. SPARKMAN,
Executor.

COUNTY OF NEW YORK,
Surrogate's Office, ss:

James T. Sparkman, executor of the estate of Mary Ann Sparkman, deceased, being duly sworn, says that the annexed inventory is in all respects just and true; that it contains a true statement of all the personal property of the said deceased, which has come to the knowledge of the deponent, and particularly of all money, bank-bills, and other circulating medium belonging to the said deceased, and of all just claims

of the said deceased against the deponent, to the best of the knowledge of the deponent.

JAMES T. SPARKMAN.

Sworn this 2nd day of December, 1867, before me.

JAMES J. CAMPBELL,
Notary Public, N. Y. County.

COUNTY OF NEW YORK, *ss:*

I, Benjamin P. Fairchild, an appraiser duly appointed by the surrogate of said county, do swear and declare that I will truly, honestly, and impartially appraise the personal property of Mary Ann Sparkman, late of the county aforesaid, deceased, which shall be for that purpose exhibited to me, to the best of my knowledge and ability.

B. P. FAIRCHILD.

Sworn this 27th day of November, 1867, before me.

W'M B. AITKEN,
Clerk to the Surrogate's Court.

COUNTY OF NEW YORK, *ss:*

I, Jeremiah B. Aitken, an appraiser, duly appointed by the surrogate of said county, do swear and declare that I will truly, honestly,
51 and impartially appraise the personal property of Mary Ann Sparkman, late of the county aforesaid, deceased, which shall be for that purpose exhibited to me, to the best of my knowledge and ability.

JEREMIAH B. AITKEN.

Sworn this 27th day of November, 1867, before me.

W'M B. AITKEN,
Clerk to the Surrogate's Court.

A true and perfect inventory of all the goods, chattels, and credits which were of Mary Ann Sparkman, late of the city of New York, deceased, made by the executor of the estate of said deceased, with the aid and in presence of Benjamin P. Fairchild and Jeremiah B. Aitken, they having been duly appointed and sworn as appraisers; containing a full, just, and true statement of all the personal property of the said deceased which has come to the knowledge of the said executor of said estate, and particularly of all moneys, bank-bills, and other circulating medium belonging to the said deceased, and of all just claims of the said deceased against the said executor, and of all bonds, mortgages, notes, and other securities for the payment of money, belonging to the said deceased, specifying the names of the debtor in each security, the date, the sum originally payable, the indorsements thereon with their dates, and the sum which in the judgment of the appraisers may be collectable on such security.

Upon the completion of this inventory, duplicates thereof have been made and signed at the end thereof by the appraisers.

INVENTORY AND APPRAISEMENT OF THE PERSONAL ESTATE OF MARY ANN SPARKMAN, DECEASED.

Died,		
Household furniture, bedsteads, bedding, books, plated and silver ware contained in house No. 27 West 42d street		$8,000 00
2 bay horses	$1,000 00	
1 chestnut horse	500 00	
1 coupee and harness	400 00	
1 coach	450 00	
2 sets double harness	300 00	
1 brett	600 00	
1 double sleigh	300 00	
Lot of blankets, robes, &c	250 00	
		3,800 00
52 26 U. S 7-30 bonds, June series, mature June 15, 1868, Nos. 75207 to 75232, inclusive. Par value, $1,000 each	26,000 00	
Present value, 105		27,300 00
14 U. S. 5-20 bonds, Nos. 24399 to 24412, in. Par value, $1,000 each	14,000 00	
		14,700 00
Lease of premises No. 27 West 42d street		40,000 00
Total appraisement		$93,800 00

Dated New York, Dec. 2d, 1867.

B. P. FAIRCHILD,
Appraiser.

John Q. Preble, being called and sworn as a witness on the part of the plaintiff, testified as follows:

I am one of the defendants in this action; I now reside at No. 27 West 42d street, in the city of New York; I have resided there since about the month of October, 1868; I am in possession of the said premises, under a conveyance thereof executed to me by James T. Sparkman, the executor of the last will and testament of Mary Ann Sparkman, late of the city and county of New York, now deceased; I herewith produce the said conveyance, and the same is marked "Exhibit No. 6;" I purchased at the same time some articles of household furniture from said executor. In payment for the purchase-money of said house and furniture, I executed and delivered a mortgage to secure the principal sum of $40,000 to said executor, and on the twenty-third day of November, 1868, I paid him the sum of $18,196.60.

A copy of the said deed, from James T. Sparkman to me, is hereto annexed.

J. Q. PREBLE.

Subscribed and sworn to before me this 12th day of July, 1870.

R. E. STILWELL,
Special Examiner, &c.

53 EXHIBIT 7.

Assignment—Sparkman, executor, to Preble.

[U. S. int.-rev. stamps, $61.50, canceled.]

This indenture, made the twenty-sixth day of October, in the year eighteen hundred and sixty-eight, between James T. Sparkman, sole acting executor of the last will and testament of Mary Ann Sparkman, late of the city of New York, deceased, party of the first part, and John Q. Preble, of the city of New York, party of the second part.

Whereas Gloverina R. Hoffman and Samuel V. Hoffman did, by an indenture of lease bearing date the fourteenth day of March, in the year eighteen hundred and sixty-three, and recorded in the register's office of the city and county of New York, in liber 876 of conveyances, page 22, on the eighteenth day of March, in the year eighteen hundred and sixty-three, demise, lease, and to farm let unto James D. Sparkman, his executors, administrators, and assigns, all and singular the premises hereafter mentioned and described, together with their appurtenances, to hold the same unto the said James D. Sparkman, and to his executors, administrators, and assigns, for the term of twenty-one years from the first day of May, in the year eighteen hundred and sixty-three, yielding and paying therefor unto the said Gloverina R. Hoffman and Samuel V. Hoffman, and to their heirs and assigns, the yearly rent or sum of seven hundred dollars; which indenture of lease was duly assigned by the said James D. Sparkman to James K. Place by deed of assignment, bearing date the thirteenth day of November, in the year eighteen hundred and sixty-five, and recorded in the said register's office, in liber 955 of conveyances, page 205, the ninth day of December, in the year eighteen hundred and sixty-five, and was further duly assigned by the said James K. Place to Mary Ann Sparkman by deed of assignment bearing date the first day of December, in the year 1865, and recorded in said register's office, in liber 955 of conveyances, page 206, the 9th day of December, in the year 1865:

And whereas the said Mary Ann Sparkman departed this life at the city of New York, on or about the day of October, in the year 1866, having first duly made, published, and declared her last will and testament, bearing date the 20th day of July, in the year 1866,
54 whereby she appointed said party of the first part and James K. Place and Charles Place executors of her said last will and testament, and fully empowered her said executors to sell or convey any or all of her real estate; which said last will and testament were duly proved before and admitted to probate by the surrogate of the county of New York, on the twenty-eighth day of November, in the year 1866, and is recorded in his office, in liber 166 of wills, page 348; and letters testamentary upon said last will and testament were, on the same day, granted and issued by the said surrogate to the said party of the first part, who had alone qualified as an executor of said last will and testament:

Now this indenture witnesseth, that the said party of the first part, for and in consideration of the sum of sixty thousand dollars lawful money of the United States to him in hand paid by the said party of the second part, at or before the ensealing of and delivery of these presents, the receipt whereof is hereby acknowledged, and by virtue of the power and authority conferred upon and existing in him as the sole

acting executor of the said last will and testament, hath granted, bargained, sold, assigned, transferred, and set over, and by these presents doth grant, bargain, sell, assign, transfer, and set over unto the said party of the second part all the said several lots of lands and premises granted and demised by the said indenture of lease, with the buildings and erections thereon, which said lots of land and premises are described in said indenture of lease as follows, that is to say:

All those two certain lots of land, situate, lying, and being in the Nineteenth ward of the city of New York, being part of the lands of the said party of the first part, which two lots adjoin each other in the rear thereof; one of which is situate on the northerly side of Forty-second street, between the Fifth and Sixth avenues, and the other of which is situate on the southerly side of Forty-third street, between the Fifth and Sixth avenues; each lot being twenty-five feet wide, front and rear, and one hundred feet and five inches in depth on each side, and which said two lots taken together are bounded and described as follows:

Beginning at a point on the northerly side of Forty-second street, distant three hundred and seventy-five feet from the westerly line
55 of the Fifth avenue; running thence northerly and parallel with the Fifth avenue; two hundred feet and ten inches, to the southerly line of Forty-third street; thence westerly, along the southerly side of Forty-third street, twenty-five feet; thence southerly, parallel with the Fifth avenue, two hundred feet and ten inches, to the northerly side of Forty-second street; and thence easterly, along the northerly side of Forty second street, twenty-five feet, to the place of beginning.

Together with all and singular the edifices, buildings, right, members, privileges, advantages, and appurtenances to the same belonging or in any wise appertaining, and the rents, issues, and profits thereof; and, also, all the estate, right, title, interest, term of years yet to come and unexpired, property, possession, claim, and demand whatsoever, both in law and in equity, which the said testatrix had in her lifetime and at the time of her decease, and which the said party of the first part hath or can or may have as executor of and by virtue of said last will and testament, or otherwise, of, in, and to the said demised premises hereinbefore particularly mentioned and described, and every part and parcel thereof, with the appurtenances; and, also, the said indenture of lease, and every covenant, clause, article, and condition therein expressed and contained; to have and to hold the said indenture of lease and other hereby granted premises unto the said party of the second part, his executors, administrators, and assigns, to his and their own proper use and benefit, for all the residue and remainder of the said term of years yet to come and unexpired, and any and every renewal thereof, subject, nevertheless, to the rents, covenants, and conditions in the said indenture of lease mentioned.

And the said party of the first part, for himself, his heirs, executors, and administrators, doth hereby covenant, grant, promise, and agree, to and with the said party of the second part, his executors, administrators, and assigns, that upon the said party of the second part, his executors, administrators, and assigns, paying the rents mentioned in and reserved by said indenture of lease hereafter accruing and becoming due and payable, and keeping and performing all, each, and every of the covenants, conditions, stipulations, and agreements to be kept and performed by the party of the second part to the said indenture of lease, his executors, administrators, and assigns, that he, the said party of the second part to these presents, his executors, administra-

56 tors, and assigns shall, and lawfully may, from time to time, and for all times hereafter for the said remainder of the term of years yet to come and unexpired, and any and every renewal thereof, peaceably and quietly have, hold, use, occupy, possess, and enjoy all and singular the said demised and hereinbefore described premises, and every part and parcel thereof, with the appurtenances; and receive and take the rents, issues, and profits thereof, to and for his and their own use and benefit, without any lawful let, suit, hindrance, molestation, interruption, or denial whatsoever, of, from, or by him, the said party of the first part, his successors or assigns, or of, from, or by any other person or persons whomsoever, lawfully claiming, or who shall lawfully claim hereafter, by, from, or under him, his successors or assigns, any right, title, interest, or estate therein or thereto; and that free and clear and freely and clearly discharged, acquitted, and exonerated, or otherwise well and sufficiently saved, defended, kept harmless, and indemnified by him, the said party of the first part, his heirs, executors, and administrators, of, from, and against all and all manner of former and other gifts, grants, bargains, sales, mortgages, judgments, and all other charges and incumbrances whatsoever, had, made, committed, executed, or done by him, the said party of the first part, or by, through, or with his acts, deeds, means, consent, procurement, or privity.

And the said party of the first part, for himself, his heirs, executors, and administrators, doth further covenant, grant, promise, and agree to and with the said party of the second part, his executors, administrators, and assigns, that the said hereby granted and assigned premises now are free and clear of and from all other and former gifts, grants, bargains, sales, leases, judgments, executions, back rents, taxes, assessments, and incumbrances whatsoever.

In witness whereof the said party of the first part hath hereunto set his hand and seal the day and year first above written.

JA'S T. SPARKMAN, [L. S.]
Ex'c'tr.

Sealed and delivered in presence of—
JAMES J. CAMPBELL.

57 STATE OF NEW YORK,
City and County of New York, ss:

On the twenty-third day of November, in the year 1868, before me personally came James T. Sparkman, to me known to be the same person described in, and who executed, the foregoing instrument, and acknowledged that he executed the same.

JAMES J. CAMPBELL,
Notary Public N. Y. County.

REGISTER'S OFFICE,
City and County of New York, ss:

I hereby certify that the foregoing instrument was this day recorded in the office of the register of the city and county of New York, in liber 1077, of cons., page 170, at 10 o'clock and 40 min's a. m.

In witness whereof I have hereunto set my hand and official seal this 24th day of November, 1868.

[L. S.] PATRICK H. JONES,
Register.

EXHIBIT 8.

Bond—Preble to Sparkman, executor.

Know all men by these presents that I, John Q. Preble, of the city, county, and State of New York, am held and firmly bound unto James T. Sparkman, executor of the last will and testament of Mary Ann Sparkman, late of said city, deceased, in the sum of eighty thousand dollars, lawful money of the United States of America, to be paid to the said James T. Sparkman, his successors or assigns; for which payment, well and truly to be made, I bind myself, my heirs, executors, and administrators firmly by these presents, sealed with my seal, dated the twenty-sixth day of October, one thousand eight hundred and sixty-eight.

The condition of the above obligation is such, that if the above-bounden John Q. Preble, his heirs, executors, or administrators, shall well and truly pay, or cause to be paid, unto the above-named James T. Sparkman, his successors or assigns, the just and full sum of
58 forty thousand dollars on the first day of November, which will be in the year one thousand eight hundred and seventy-three, and interest thereon, to be computed from the twenty-fourth day of November, in the year 1868, at and after the rate of seven per cent. per annum, and to be paid semi-annually on the first day of May and November in each and every year until said principal sum shall be fully paid, with the privilege to the above-named obligor and his legal representatives at any time to make payments on account of said principal sum in sums of not less than five thousand dollars at any one time, without any fraud or other delay, then the above-written obligation to be void, otherwise to remain in full force and virtue.

And it is hereby expressly agreed that should any default be made in the payment of the said interest, or of any part thereof, or on any day whereon the same is made payable as above expressed, and should the same remain unpaid and in arrear for the space of thirty days, then and from thenceforth, that is to say, after the lapse of the said thirty days, the aforesaid principal sum of forty thousand dollars, or so much thereof as shall remain unpaid, with all arrearage of interest thereon, shall, at the option of the said James T. Sparkman, his successors or assigns, become and be due and payable immediately thereafter, although the period first above limited for the payment thereof may not then have expired, anything hereinbefore contained to the contrary thereof in anywise notwithstanding.

J. Q. PREBLE. [L. S.]

Sealed and delivered in presence of—
A. H. WALLIS.

NEW YORK, *May 1st*, 1869.

Received twelve hundred and twenty-one $\frac{10}{100}$ dollars, interest to date from Nov. 24th, 1868.

JA'S T. SPARKMAN, *Executor.*

Interest on this bond is paid to Nov. 1, 1869.
$1,400. W. DARROW, *Sec't'y.*

Interest paid to May 1, 1870.
$1,400. W. DARROW, *Sec't'y.*

59 EXHIBIT 9.

Mortgage—Preble to Sparkman, executor.

This indedture, made the twenty-sixth day of October, in the year one thousand eight hundred and sixty-eight, between John Q. Preble, of the city of New York, party of the first part, and James T. Sparkman, executor of the last will and testament of Mary Ann Sparkman, late of said city, deceased, party of the second part: Whereas, Gloverina R. Hoffman and Samuel V. Hoffman did, by a certain indenture of lease bearing date the fourteenth day of March, in the year one thousand eight hundred and sixty-three, demise, lease, and to farm let unto James D. Sparkman, and to his executors, administrators, and assigns, all and singular the premises hereinafter mentioned and described, together with their appurtenances; to have and to hold the same unto the said James D. Sparkman, and to his executors, administrators, and assigns, for and during and until the full end and term of twenty-one years from the first day of May, in the year 1863, and fully to be complete and ended, yielding and paying therefor unto the said Gloverina R. Hoffman and Samuel V. Hoffman, and to their heirs or assigns, the yearly rent or sum of seven hundred dollars, which said indenture of lease is recorded in the register's office of the city and county of New York, in liber 876 of conveyances, page 22, March 18, 1863, and was assigned by the said James D. Sparkman to James K. Place, by deed of assignment bearing date the thirtieth day of November, in the year 1865, and recorded in said register's office, in liber 955 of conveyances, page 205, the ninth day of December, in the year 1865, and was further assigned by the said James K. Place to Mary Ann Sparkman, by deed of assignment bearing date the first day of December, in the year 1865, and recorded in said register's office, in liber 955 of conveyances, page 206, the ninth day of December, in the year 1865, and was further assigned by James T. Sparkman, executor of the last will and testament of said Mary Ann Sparkman, deceased, to the said party of the first part by deed of assignment bearing even date with these presents.

And whereas the said party of the first part is justly indebted to the said party of the second part in the sum of forty thousand dollars, lawful money of the United States of America, secured to be paid by his certain bond or obligation bearing even date with these presents, in the penal sum of eighty thousand dollars, lawful money as afore-
60 said, conditioned for the payment of the said first-mentioned sum of forty thousand dollars on the first day of November, which will be in the year one thousand eight hundred and seventy-three, and interest thereon, to be computed from the twenty-fourth day of November, in the year 1868, at and after the rate of seven per cent. per annum, and to be paid semi-annually, on the first days of May and November, in each and every year, until the whole principal sum shall be fully paid, with the privilege to the said party of the first part, and his legal representatives, at any time to make payments on account of said principal sum in sums of not less than five thousand dollars at any one time, which said bond also contains an agreement that should any default be made in the payment of said interest, or any part thereof, on any day whereon the same is made payable, as above expressed, and should the same remain unpaid and in arrear for the space of thirty days, that then and from thenceforth, that is to say, after the lapse of the said thirty days, the aforesaid principal sum of forty thousand dollars, or so much thereof as shall remain unpaid, with all arrearages of interest

thereon, shall, at the option of the said party of the second part, or his legal representatives, become and be due and payable immediately thereafter, although the time limited for the payment thereof may not then have expired, anything in the said bond contained to the contrary thereof notwithstanding, as by the said bond or obligation, and the condition thereof, reference being thereunto had, may more fully appear.

Now this indenture witnesseth that the said party of the first part, for the better securing the payment of the said sum of money mentioned in the condition of the said bond or obligation, with interest thereon, according to the true intent and meaning thereof, and also for and in consideration of the sum of one dollar to him in hand paid by the said party of the second part at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, assigned, transferred, and set over, and by these presents doth grant, bargain, sell, assign, transfer, and set over unto the said party of the second part, all those two certain lots of land, situate, lying, and being in the nineteenth ward of the city of New York, which two lots adjoin each other in the rear thereof; one of which is
61 situate on the northerly side of Forty-second street, between the Fifth and Sixth avenues, and the other of which is situate on the southerly side of Forty-third street, between the Fifth and Sixth avenues; each lot being twenty-five feet wide front and rear, and one hundred feet and five inches in depth on each side, and which said two lots, taken together, are bounded and described as follows:

Beginning at a point on the northerly side of Forty-second street, distant three hundred and seventy five feet westerly from the westerly line of the Fifth avenue; thence running northerly, and parallel with the Fifth avenue, two hundred feet and ten inches, to the southerly side of Forty-third street; thence westerly, along the southerly side of Forty-third street, twenty-five feet; thence southerly, parallel with the Fifth avenue, two hundred feet and ten inches, to the northerly side of Forty-second street; and thence easterly, along the northerly side of Forty-second street, twenty-five feet, to the place of beginning.

Being the same premises which were conveyed to the said party of the first part by the said party of the second part, by deed of assignment bearing even date with these presents, and this mortgage being given to secure the payment of a part of the purchase-money expressed therein, the same having been deducted therefrom, together with all and singular the edifices, buildings, rights, members, privileges, and appurtenances thereunto belonging, or in any wise appertaining; and, also, all the estate, right, title, interest, term of years yet to come and unexpired, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in, and to the said demised premises, and every part and parcel thereof, with the appurtenances; and, also, the said indenture of lease, and every clause, article, and condition therein expressed and contained; to have and to hold the said indenture of lease, and other hereby granted premises, unto the said party of the second part, his successors and assigns, to his and their only proper use, benefit, and behoof, for and during all the rest, residue, and remainder of the said term of years yet to come and unexpired; subject, nevertheless, to the rents, covenants, conditions, and provisos in the said indenture of lease mentioned.

Provided always, and these presents are upon the express condition, that if the said party of the first part shall well and truly pay unto the said party of the second part the said sum of money mentioned
62 in the condition of the said bond or obligation, and the interest

thereon, at the time and in the manner mentioned in the said condition, according to the true intent and meaning thereof, that then and from thenceforth these presents, and the estate hereby granted, shall cease, determine, and be utterly null and void, anything hereinbefore contained to the contrary in any wise notwithstanding.

And the said party of the first part doth hereby covenant, grant, promise, and agree to and with the said party of the second part that he shall well and truly pay unto the said party of the second part the said sum of money mentioned in the condition of the said bond or obligation, and the interest thereon, according to the condition of the said bond or obligation. And that the said premises hereby conveyed now are free and clear of all incumbrances whatsoever, and that he hath good right and lawful authority to convey the same in manner and form hereby conveyed. And if default shall be made in the payment of the said sum of money above mentioned, or in the interest that shall accrue thereon, or of any part of either, that then and from thenceforth it shall be lawful for the said party of the second part, his successors and assigns, to sell, transfer, and set over all the rest, residue, and remainder of said term of years then yet to come, and all other the right, title, and interest of the said party of the first part of, in, and to the same, at public auction, according to the act in such case made and provided; and as the attorney of the said party of the first part, for that purpose by these presents duly authorized, constituted, and appointed, to make, seal, execute, and deliver to the purchaser or purchasers thereof a good and sufficient assignment, transfer, or other conveyance in the law, for the same premises, with the appurtenances; and out of the money arising from such sale to retain the principal and interest which shall then be due on the said bond or obligation, together with the cost and charges of advertisement and sale of the same premises, rendering the overplus of the purchase-money (if any there shall be) unto the said party of the first part, or his assigns; which sale, so to be made, shall be a perpetual bar, both in law and equity, against the said party of the first part, and against all persons claiming or to claim the premises, or any part thereof, by, from, or under him, them, or any of them.

And it is also agreed by and between the parties to these presents that the said party of the first part shall and will keep the build-
63 ings erected and to be erected upon the lands above conveyed insured against loss and damage by fire, by insurers, and in an amount approved by the said party of the second part, and assign the policy and certificates thereof to the said party of the second part; and in default thereof it shall be lawful for the said party of the second part to effect such insurance, and the premium and premiums paid for effecting the same shall be a lien on the said mortgaged premises, added to the amount of the said bond or obligation, and secured by these presents, and payable on demand, with interest, at the rate of seven per cent. per annum.

In witness whereof, the party of the first part to these presents hath hereunto set his hand and seal the day and year first above written.

J. Q. PREBLE. [L. S.]

Sealed and delivered in the presence of—
FRANCIS B. AUTZ.
[$20 stamp, canceled. $20 stamp, canceled.]

STATE OF NEW YORK,
City and County of New York, ss:

On this twenty-fourth day of November, in the year one thousand

eight hundred and sixty-eight, before me personally came John Q. Preble, to me known to be the same person described in and who executed the foregoing mortgage, and duly acknowledged that he executed the same.

FRANCIS B. AUTZ,
Notary Public, N. Y. County.

REGISTER'S OFFICE,
City and County of New York:

I hereby certify that the foregoing instrument was this day recorded in the office of the register of the city and county of New York, in liber 880 of mortgages, page 276, at 10 o'clock and 40 minutes a. m.

In witness whereof I have hereunto set my hand and official seal this 24th day of November, 1868.

[L. S.] PATRICK H. JONES,
Register.

64 EXHIBIT 10.

Formation of partnership of J. K. & E. B. Place.

[U. S. rev. stamp, 5 cents, canceled.]

These presents certify that we, the undersigned, have formed a limited partnership, pursuant to the provisions of article 1st, title 1st, chapter 4, part 2 of the Revised Statutes of the State of New York, entitled "Of Limited Partnership," and the acts amendatory thereof.

That the name and firm under which such partnership is to be conducted is J. K. & E. B. Place.

That the general nature of the business intended to be transacted is the importing, buying, vending, and dealing in groceries and other merchandise.

That James D. Sparkman, who resides in the city of Brooklyn, county of Kings, is the special partner, and James K. Place, who resides in the city of New York, and Ephraim B. Place, who resides in the said city of Brooklyn, are the general partners.

That the amount of capital which the said James D. Sparkman has contributed to the common stock is the sum of fifty thousand dollars in cash.

That the said partnership is to commence on the fifth day of January in the year 1864, and is to terminate on the thirty-first day of December in the year 1866.

In witness whereof we have hereunto set our hands and seals the fifth day of January, in the year one thousand eight hundred and sixty-four.

JAMES D. SPARKMAN. [L. S.]
JA'S K. PLACE. [L. S.]
EPHRAIM B. PLACE. [L. S.]

CITY AND COUNTY OF NEW YORK, *ss:*

On this fifth day of January, in the year 1864, personally appeared before me James D. Sparkman, Ja's K. Place, and Ephraim B. Place, severally known to me to be the same persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same.

JAMES J. CAMPBELL,
Notary Public, N. Y. Co.

STATE OF NEW YORK,
City and County of New York, ss:

65 James K. Place and Ephraim B. Place, the general partners named in the foregoing certificate, being by me severally duly sworn, did severally depose and say that the sum of fifty thousand dollars, specified in the foregoing certificate to have been contributed by James D. Sparkman, the special partner named in said certificate, to the common stock of said copartnership, has been actually and in good faith paid by him in cash, and has been received from him by said deponents in cash.

JA'S K. PLACE.
EPHRAIM B. PLACE.

Sworn this 5th day of Jan., 1864, before me.
JAMES J. CAMPBELL,
Notary Public, N. Y. County.

[5-cent U. S. rev. stamp, canceled.]

Let the above be published in the World and New York Atlas, two newspapers published in the city of New York.
Dated Jan. 6, 1864.

H. W. GENET, *Clerk.*

(Endorsed:) Filed and recorded Jan. 6, 1864.

[5-c't U. S. rev. stamp, canceled.]

STATE OF NEW YORK,
City and County of New York, ss:

I, Charles E. Loew, clerk of the said city and county, and clerk of the supreme court of said State for said county, do certify that I have compared the preceding with the original certificate of formation of limited partnership of J. K. & E. B. Place, on file and recorded in my office, and that the same is a correct transcript therefrom, and of the whole of such original certificate.

In witness whereof I have hereunto subscribed my name and affixed my official seal this 29th day of September, 1870.

[SEAL.] CHA'S E. LOEW, *Clerk.*

[Int. rev. certificate, 5 c'ts, canceled.]

66 U. S. district court.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C.,
vs.
JOHN Q. PREBLE ET AL.

Testimony on the part of the plaintiff, taken for final hearing before R. E. Stilwell, esq., special examiner, pursuant to the 67th rule of the Supreme Court of the United States, in equity, as amended:

Lewis W. Burritt, junior, called and sworn as a witness on the part of the plaintiff, testifies as follows:

I was employed by J. K. & E. B. Place, as book-keeper and cashier, from November 1st, 1854, to about October 1st, 1857, and from about December 1st, 1858, to December 1st, 1865, as cashier. After Novem-

ber 30th, 1865, I was in the employ of J. K. Place & Co., as cashier, until November 20th, 1867. Whilst in the employ of J. K. & E. B. Place I kept the check-book and blotter cash-book; the blotter cash-book is a cash-book of original entry. I recognize the signature of James K. Place and James D. Sparkman to the paper now produced and shown me, and hereto annexed. I recognize the signature "Lewis W. Burritt, junior," as that of the subscribing witness. The signature of James K. Place is in the handwriting of James K. Place; the signature of James D. Sparkman is in the handwriting of James D. Sparkman; I saw James K. Place and James D. Sparkman execute that paper, and I signed my name thereto as a witness to such execution thereof. I recognize the ledger of James K. & E. B. Place now here; it was in use by James K. & E. B. Place up to December 1st, 1865. James K. Place & Co. continued the use of the ledger from December 1st, 1865, up to the time of their failure. The debits and credits of J. K. & E. B. Place, as existing on the 30th November, are collected together on the Journal B of J. K. & E. B. Place, now produced and shown me, under the heading of "Trial balance, Nov. 30th, 1865;" it is in the handwriting of John B. Morgan; that
67 trial balance embraces the assets and debts of the firm; the assets appear in the left-hand column of figures, and the debts appear in the right-hand column of figures. I hereto annex a copy thereof. I don't know of any property, merchandise, money, or anything else which James K Place or James D. Sparkman contributed to the capital of James K. Place & Co., except their respective interests in the property of J. K. & E. B. Place. The amount of cash, as appears by the book, which J. K. & E. B. Place had on hand November 30th, 1865, was $121,844.83 in currency and $15,026.89 in gold; that cash was in the form of balances due by banks in which they kept their accounts, and these balances stood in the name of that firm; an entry was made in the book of James K. Place & Co., Dec. 1st, 1865, of $121,844.03 in currency and $15,026.89 in gold; that was the same cash which then stood to the credit in the books J. K. & E. B. Place. Besides cash on deposit, J. K & E. B. Place had books of account and merchandise. The place of business of J. K. & E. B. Place was at 132 to 134 Front street during the latter part of their existence; the place of business of J. K. Place & Co. was at 132 and 134 Front street, and part of the merchandise of J. K. & E. B. Place was in that store; the rest, I presume, was stored in different parts of New York and Brooklyn. They stored goods in Brooklyn, and there might have been some over there. On the credit side of the trial balance I observe the following items:

"James K. Place, credit $227,301 62
Ephraim B. Place, do. $168,529 96
James D. Sparkman, do ..... $262,719 48"

The aggregate of these three items indicates the value of the surplus assets of James K. & E. B. Place over and above the amount necessary to satisfy their debts, and those items severally represent the interests of the respective partners in such surplus. The losses of James K. Place & Co. during the year 1856 amounted to $205,276.71. James K. Place's proportion of that loss was $153,050.68, and James D. Sparkman's proportion of that loss was $51,016.90. The firm of James K. Place & Co. suspended payment November 20th, 1867. James D. Sparkman's private account with the firm is on folios 10 and 11 of Ledger C, and the following is a copy of the same:

68

EXHIBIT 11.

James D. Sparkman.

1865.	D'R.			
Jan'y 1.	To loan account	193	$45,042 14	
Nov. 30.	" profit and loss.—1860	240	26 19	
"	" " " —1857	254	164 07	
	Balance		262,719 48	
				$307,951 88
1865.	C'R.			
Jan'y 1.	By am't from Ledger B	14	$187,667 86	
Nov. 30.	" interest	240	10,258 40	
"	" profit and loss—1863	244	1,032 49	
"	" " " —1858	254	80 03	
"	" " " —1859	254	90 61	
"	" sundries	254	11,222 64	
"	" stock	239	50,000 00	
"	" profit and loss—1865	261	47,599 85	
				$307,951 88
1865.	D'R.			
Dec. 1.	To stock	1	$200,000 00	
1866.				
Jan. 30.	" cash	22	50 00	
31.	" merchandise	393	56 20	
Mar. 14.	" cash	63	10,000 00	
"	" "	63	200 00	
Mar. 27.	" "	74	5,000 00	
May 8.	" "	103	182 28	
June 15.	" "	135	50 00	
July 10.	" "	154	75 75	
2.	" merchandise—cash	11	22 69	
17.	" cash	158	27 00	
23.	" "	161	20,000 00	
Aug. 31.	" "	190	35 44	
Sept. 3.	" "	192	15 00	
11.	" merchandise—cash	131	71 82	
19.	" "	156	41 83	
Oct. 11.	" "	227	8 34	
	E. B. P. from M'ch 10, '66	66	2,000 00	
15.	cash	332	20,000 00	
Nov. 26.	" "	275a	632 23	
"	" "	"	241 61	
28.	" "	277	387 00	
"	" merchandise	292	118 91	
Dec. 4.	" "	306	9 66	
22.	" cash	299	163 85	
26.	" "	301	223 55	
17.	" merchandise	349	75 70	
69 10.	To cash	302	$10,000 00	
31.	" "	310	34 41	
"	" Union Sugar Co	93	5,792 50	
	Balance		10,305 55	
				$285,821 32
1865.	C'R.			
Nov. 30.	By balance		$262,719 48	
1866.				
Jan. 29.	" E. B. Place	6	4,650 00	
Mar. 10.	" "	19	12,000 00	
	" J. K. P. March 10, '66	66	1,000 00	
Oct. 31.	" merchandise	68	632 23	
Dec. 31.	" interest	80	3,941 69	
"	" profit and loss—1864	89	712 97	
"	" " " —1860	90	25 00	
"	" " " —1858	91	139 95	
				$285,821 32

EXHIBIT 11—Continued.

1867.		D'R.			
Jan.	28.	To merchandise—cash	56	$52 96	
Feb.	14.	" " "	79	50 00	
Mar.	14.	" " "	111	14 63	
	20.	" cash	66	12 50	
	26.	" "	70	50 00	
April	5.	" "	76	24 00	
	20.	" "	85	50 00	
		To folio	11		$254 09
1867.		C'R.			
Jan.	1.	By balance		$10,305 55	
May	6.	" J. D. S., pepper ac	131	7,360 02	
		To folio	11		$17,665 57
1867.		D'R.			
Apr.	20.	To am't from folio 10		$254 09	
May	23.	" lots on 43d st	134	50 00	
	31.	" cash	115	8 00	
June	17.	" "	125	12 00	
	19.	" merchandise	198	73 49	
	25.	" "	203	18 08	
	29.	" cash	134	8 00	
July	18.	" Corn Exchange Ins. Co	139a	4,050 00	
	15.	" cash	144	8 00	
	31.	" "	155	10 00	
Aug.	3.	" "	157	625 00	
	15.	" "	164	12 00	
70	31.	To cash	174	6 00	
Sept.	14.	" "	184	6 00	
	25.	" merchandise	301	3 00	
	27.	" "	305	48 30	
	30.	" cash	194	18 00	
Oct.	15.	" "	207	12 00	
	31.	" "	219	12 00	
Nov.	4.	" " $61.50—$625.00	222	686 50	
	"	" merchandise	332		
	7.	" "	335	27 92	
	15.	" cash	231	12 00	
	19.	" "	234	6 00	
	20.	" J. D. S., gold acc	178	2,757 99	
	"	" U. S. 7-30—(J. D. S.)	182	40,800 00	
	"	" U. S. Watch Co	182	1,102 53	
	"	" Marion B'd'g	"	1,104 53	
	"	" profit and loss acc. '66	185	51,016 90	
	"	" interest	185	3,171 66	
	"	" J. K. & E. B. Place (3)	196	2,793 70	
	"	" "	197	3,195 00	
		" real estate, Mich	197	303 85	
Dec.	10.	" cash	239	500 00	
	11.	" "	239	5,000 00	
1867.		C'R.			
May	6	By am't from folio 10		$17,665 57	
July	18.	" J. D. Sparkman	173a	4,050 00	
Nov.	20.	" interest	178	704 1[illegible]	
		" profit and loss—1866	196	8,478 01	
		" stock	199	200,000 00	

I believe the entries therein to be correct; the assets and debts of the firm of Place & Co. existing on the 31st December, '66, are collected together and embraced in the "Trial balance, 31st December, 1866," found on Journal A of J. K. Place & Co., commencing at folio 98, and continued to fol. 107.

71 EXHIBIT 12.

Trial balance, Dec. 31, 1866.

			D'R.	C'R.
2	Ja's K. Place, *loan ac*		$5,732 00	
4	M'r's Susan A. Place			$5,312 50
5	Ja's K. Place, "*in trust*"		442 00	
6	M'r's Dorothy Place		141 00	
7	M'r's H. Barker		4,519 17	
9	Isa c Stevens			1,979 70
10	Real E-ta e, Milwaukee, "*J. K. Place, in trust.*"		524 25	
11	M'r's Elizabeth Stevens			2,495 50
12	Richard S. Place		100 00	
14	Barker Place			1,187 00
16	Ja's D. Sparkman, *gold ac*		9,617 50	11,139 30
19	Peter Schersten	New York		1,550 00
20	Richa d Ten Broeck	"		2,647 00
21	Manufacturers' Nat'l B'k	"		10,000 00
22	Henry Baldwin	"	344 04	
24	Robert Reade	"		7,596 94
26	J. hn Coleman	"	100 00	
28	Lewis W. Burritt, j'r	"		1,500 00
29	Daniel B. Alger, ex'r	"		2,877 00
31	John B. Morgan, "*loan ac.*"	"	464 00	
32	William Morgan, *in trust*	Brooklyn, N. Y	1,099 19	
33	Lewis W. Burritt	Stratford, Conn		2,532 50
48	Day, Allen & Co., *draft ac*	Chicago, Ill		1,120 08
55	Given, Jones & Co	New York	133,000 00	100,000 00
56	M'r's Susan P. Perry	Brooklyn, N. Y		5,498 00
64	Burger, Hurlbut & Livingston	New York		25,000 00
71	Cha's Wilson	New York	20 00	
72	Whitaker, Harmon & Co., *draft ac.*	Chicago, Ill		451 61
76	B'k of British North America	New York	136,000 00	96,888 89
78	G. C. Von Uslar	New York	260 37	
93	Place & Turlay, *call loans*	"	31,027 16	
95	E. B. Place, *gold ac*	"		6,303 06
104	Joseph S. Barker	Sing Sing, N. Y		60,000 00
104	" "	"		1,138 00
106	Titus, Smyth & Co	New York	2,250 00	
107	Geo. E. King	"	60 00	
118	Silkman & Ten Broeck	"		1,000 00
120	Place & Turlay, "*gold ac.*"	"		5,843 99
122	O. W. F. Randolph	"		130,196 72
123	Taylor & Wright, *duty ac*	Chicago, Ill		11,016 35
133	Ja's K. Place, *gold ac*		61,000 00	81,130 00
136	M'r's J. C. Place	New York		6,407 58
138	Ja's A. Robinson		3,185 21	
72				
143	Davenport & Son, *loan ac*		$1,100 00	
144	C. C. Parks		393 75	
150	Durkheim, Cox & Kenneys		276,750 00	$200,000 00
153	Underhill & Haven	New York	134,000 00	100,000 00
156-'57	Henry N. Titus, *borr'd gold*	"	273,700 00	205,000 00
160	Richard Patrick	"	133,000 00	100,000 00
161	James Tinker	"	66,500 00	50,000 00
162	Brown Bro's & Co	"	30,000 00	184,100 00
163	Goodrich & Walker	"	3,080 34	
253	Prem. on specie	"		370,441 83
274	A. Wood	"	450 00	
274	Place & Prichard	New York	1,000 00	

EXHIBIT 12—Continued.

			D'R.	C'R.
275	David Denison		75 00	
276	E. L. Prentiss		50 00	
	C. H. Denison		350 00	
	A. L. Wood		250 00	
277	Thomas Smull			20,000 00
"	O. C. Hatch & Co	New York	3,000 00	
"	M'r's M. Van Brunt			5,035 00
"	Williams, Young & Kaas	Chicago, Ill	1,500 00	
1	Stock			800,000 00
3	Ja's K. Place		457,554 53	
8	Ephraim B Place			78,053 88
10	Ja's D. Sparkman			10,305 55
13	Merchandise		812,062 74	
	" for inventory		894,594 58	
28	U. S. 7-30 notes, *Ja's K. Place & Co.*		106,135 70	
31	Fifth av'e, cor. 47th st., *J. K. Place.*	New York	61,627 00	
32	Bills receivable		167,830 20	
"	*Bills receivable*		6,162 51	
37	Bills payable		949,790 68	
41	Real est., 132 and 134 Front street, *J. K. Place.*	New York	120,000 00	
43	Bond and mortgage	Buffalo, N. Y	1,114 00	
44	Real estate	Mich gan	1,637 00	
45	"	Saginaw City	655 00	
46	"	East Saginaw, M	1,303 47	
49	Humboldt Insurance Co., *J. K. Place.*		1,400 09	
50	Allaire Works, *Ja's K. Place and Ephraim B. Place.*		4,484 50	
51	New York and Nevada Silver Mining Company.	Silver City, Col	3,633 00	
52	Metropolitan Bank stock		5,978 00	
73				
54	Atlantic Mutual Insurance Company.	New York	$118 50	
57	Real estate, 282 Gates avenue	Brooklyn, N. Y	5,034 00	
60	United States taxes			$584 00
61	Profit and loss, 1865			3,783 99
63	Joseph Lush	New York		223 00
64	Livingston & Place	"	746 01	
65	Joseph F. Randolph			250 00
66	Cha's R. Stillwell			150 00
67	T. T. Sheffield			1,750 00
68	John B Morgan			300 00
72	Lewis W. Burritt, jr		500 00	
73	Marion Building Co		2,076 00	
74	Daniel B. Alger		800 00	
77	William H. Gibson		120 00	
78	United States Watch Co		2,076 00	
80	Charles P. Sparkman			25 00
81	Geo. F. Gibson			100 00
83	Lots on 43d street	New York	16,210 00	
84	Henry Groth			35 00
87	Corn Exchange Insurance Co., *J. K. Place.*		4,657 00	
102	Profit and loss, 1861			101 75
103	" 1866			606,785 95
104	" 1860			30 00
105	" 1858			350 00
106	" 1859			142 93

EXHIBIT 12—Continued.

			D'R.	C'R.
108	U. S. 7 3-10 bonds, *J. D. Sparkman.*		40,132 18	
112	J. K & E. B. Place, No. 3			151 31
113	Fletcher H. Bangs			250 00
115	Henry N. Titus			750 00
116	Geo. L. Montgomery			100 00
117	Pelham W. Warren			200 00
120	Gilbert S. Key			58 34
121	Henry Butman			24 00
132	E. B. Place, bond and mortgage			78,600 00
133	J. P. Giraud, j'r, ex'r	New York		41,400 00
135	McIlvain & Young	"		16 33
"	Moses Taylor & Co	"		46,866 32
"	*Cary & Co*	"		18,441 38
"	*C. O. Whitmore & Sons*	*Boston*		20,561 57
"	*Howland & Aspinwall*	*New York*		6,136 73
"	*Wright & Hard*	"		47,390 95
"	*J. L. Phipps & Co*	"		73,314 68
74				
135	*Bunge, Burlage & Co*	New York		$6,494 49
139	B P. & H. Rogers, *Suspense acc't.*		22 93	
"	Harvey Church, "		50 00	
"	Geo. Nichols, "		200 00	
"	Lanyon, Smith & Co., "		20 00	
"	Burns & Vance, "		100 00	
"	S. W. Adams & Co., "		1,000 00	
"	Harrington & Brewster, "		30 00	
"	Samuel Dobbins, "		100 00	
"	Beach, Moores & Co., "		1,880 30	
"	R. W. Pride & Co., "		100 00	
"	Biss & Martin, "		100 00	
"	Groom Bro's & Co., "		100 00	
143	G. S. Keys, assignee of H'y Butman.	New York		606 84
146	Dickinson, Comstock & Co	Utica, N. Y	1,057 91	
148	Vann & Arcularius	New York	1,688 69	
150	*J. K. Place & Co., in trust*			5,006 27
152	J. C. Raquet & Co	S't Paul, Min	2,759 87	
153	Ricker & Ober	Milwaukee, Wis	135 65	
155	M. A. Hoppock & Co	New York	2,747 66	
"	*M. A. Hoppock & Co*	"	752 04	
159	Fearons & Smith	Phil'a, Pen	1,099 25	
161	Hinsdale, Sibley & Endicott	Chicago, Ill	5,774 95	
163	J. & W. B. Brooks	Columbia, O	300 00	
167	J. W. Doanes & Co	Chicago	1,310 58	
"	*J. W. Doanes & Co*	"	10,977 46	
173	*Crabbs & Benson*	Toledo, O	905 78	
176	*E. Lerving & Co*	Baltimore, M'd	17,745 12	
177	Gray, Phelps & Co	Chicago, Ill	6,850 60	
178	Bailey & Clark	New York	618 58	
179	G. & R. McMillan	Detroit, Mich	581 01	
180	Ring, Ross & Roberts	New York	593 91	
187	*Joint acc't Ginger with Place & Turlay.*		8,376 00	
192	Moore, Trimble & Co	New York	275 01	
200	*Howell, Barr & Co*	"	4,142 42	
201	*C. R. Corbin & Co*	*Chicago, Ill*	2,164 43	
"	C. R. Corbin & Co	"	54 37	
206	White, Bro's & Co	Cincinnati		2,119 60
214	S. L. Waitzfelder & Co	New York	813 14	
215	Alexander S. Anderson	Buffalo		31,000 00
220	Laurence & Chambers	Ottawa, Iowa	1,038 46	

EXHIBIT 12—Continued.

			D'R.	C'R.
223	P. F. McQuillan	S't Paul, Minn	822 50	
224	Harrison & Wilson	Cincin., Ohio	396 84	
75				
234	*Harrison & Wilson*	Cincinnati, Ohio	$197 67	
227	G. C. Cook & Co	Chicago, Ill	1,077 48	
230	Le nard, Frost & Co	Nebraska City	3,176 00	
231	Miller & G einer	Buffalo, N. Y		$33,489 25
239	Place & Turl y, (*Sugar refiners,*)		47,569 32	
244	*George Moore*	N. Y	1,735 28	
245	M. B. Smith & Co	Chicago	5,640 42	
246	O. W. Pierce & Co	La Fayette	152 50	
248	Joh ston, Mitchell & Co	Louisville, K'y	$1,899 34	
262	*Ewing & Co*	*Nashville, Tenn*	1,662 23	
264	*Stanton, Shelton & Co*	*N. Y*	2,027 96	
275	*Nazro & Kimball*	"	1,226 36	
282	Willi ms, Young & Kaas	Chicago, Ill's	419 63	
289	*Joint acc't with Place & Thurlay,* No. 3.		3,603 05	
292	*Merrill, Castleman & Co*	Louisville, K'y	440 25	
293	Norton & Tuttle	Chicago, Ill	5,878 95	
296	M ses W. Field & Co	Detroit, Mich	221 98	
300	Johnson & Wheeler	" "	775 19	
303	Sprague, Warner & Co	Chicago	1,861 13	
304	*B. Trentman & Son*	*Fort Wayne, Ind*	3,853 43	71 18
311	*Bell, Emerson & Co*	*Toledo, O*	1,086 06	558 22
312	*G. W. Flanders & Co*	*Chicago, Ill's*	20,859 63	
312	G. W. Flanders & Co	" "	502 05	
315	Jonat an Stewart	Trenton	201 82	
316	*Meyer & Meister*	*S't Louis, Mo*	1,642 31	
316	Meyer & Meister	" "	455 09	
322	*D. C. Ripley & Co*	*New York*	1,248 68	
330	Cha's L. Moore & Co	Cincin., Ohio	13,190 11	
334	Wright, Gillies & Bro	N. Y	1,402 88	
336	E. Stimson & Co	Syracuse, N. Y	705 95	
343	Neise, Knoblach & Co	S't Louis, Mo	3,679 12	
344	*Reere, Case & Co*	*New York*	864 60	
346	Meeker & Barker	Chicago, Ill's	10,462 82	
349	Geo W. Brainard & Co	New York	346 48	
350	Crossland, Maguire & Co	Indianapolis, Ind	245 35	
353	*H. K. Thurber*	*New York*	1,068 25	
361	Swormstedt, Corbin & Co	Chicago	2,566 61	
363	*Ja's A. Waters & Co*	*Philadelphia*	458 03	
364	John Stephens & Co	Detroit	222 64	
366	*Carver, Wendover & Co*	*S't Louis, Mo*	12,479 63	
366	Carver, Wendover & Co	" "	182 80	
368	*Mathew Hunt*	" "	727 40	
371	*W. A. McSherry & Co*	*Baltimore, M'd*	1,302 31	
373	Cha's Stoughton	New York	2,234 98	
376	D. S. Benedict & Sons	Louisville, K'y	10,756 96	
378	Hoppock & Greenwood	New York	226 34	
379	H. H. Landes	Philadelphia	12,417 18	
76				
381	Brinkerhoff & Mills	New York	$62,262 69	
382	Sockett, Belcher & Co		2,026 05	
383	H. W. Belcher & Co	"	3,575 70	
385	usquehanna Seminary	Binghampton, N. Y	14,229 60	
389	G rbott & Black	New York	295 05	
389	*Garbutt & Black*	"	753 16	
390	*Fleck & Sherwood*	*Newark, Ohio*	437 18	
393	*W. M. Hoyt & Co*	*Chicago*	1,775 17	

EXHIBIT 12—Continued.

			D'R.	C'R.
395	G. & F. Meyer	Quincy	528 77	
397	*G. C. Buell & Co*	*Rochester, N. Y*	275 31	
397	G. C. Buell & Co	" "	159 27	
402	Leopold Schepp	New York	67 25	
403	Leopold Schepp	"	10,316 71	
403	*Leopold Schepp*	"	21,436 10	
406	Taylor & Wright	Chicago, Ill's	60,354 37	
410	Fit s, Austin & Turner	New York	546 19	
411	*Geo. F. Gilman*	"	9,688 19	
412	*R. F. Bower & Co*	*Keokuk, Iowa*	1,800 26	
463	Brown, Mackay & Co	Chillic othe, Ohio	1,306 33	
463	Joshua Burr	Davenport, Iowa	441 85	
463	Colville, Miller & Berry	New York	239 23	
464	Quackenbush & Hamilton	"	372 24	
"	S. & R. Lord	"	62 63	
"	Kirtland, Harmon & Co	"	409 72	
"	Rowe & Burgess	"	124 47	
"	Macy & Co	"	740 52	
"	B. Elliott & Son	"	656 34	
"	Boyd Brothers	"	188 12	
"	A. B. Gillett	Hartford, Conn	299 15	
"	Robert Seaman	New York	412 10	
"	Sawyer & Co	Piqua, Ohio	34 51	
"	N. J. Buyer	Sandusky	382 45	
"	Quimby & Smith	New York	320 53	
"	Huntington & Dorn	"	376 65	
"	J. R. Nelson	Burlington	993 21	
"	Chapman & Sloan	Peoria	465 33	
"	*Davis, Brown & Co*	*Logansport*	147 76	
"	Ja's T. Joyce	New York	1,286 13	
"	John Dempsey	Shely	769 85	
"	R. Bleakley & Co	New Orleans	9,576 18	
"	*W. H. Decker*	*New York*	1,421 83	
"	T. J. Moise & Co	"	260 72	
"	A. Eppelsheimer & Co	Philadelphia, P'a	428 43	
"	T. J. Davis & Co	Newark, Ohio	50 08	
"	D. Crouse, Son & Co	Utica, N. Y	231 77	
"	Geo. Ogden'& Co	Philadelphia, P'a	1,141 16	
"	Hewitt & Platt	New York	74 64	
77				
465	Ja's Brainard & Co	Brockport, N. Y	$61 31	
"	Cha's Henkel	New York	9 24	
"	Tho's McDowell	Brooklyn, N. Y	164 67	
"	M'f's Warren Lazell	New York	55 23	
"	W. H. Smith	"	475 69	
"	A. Wyckoff	"	62 64	
501	John Mann	New Albany, In	1,878 9	
502	Kellogg, Birge & Co	Keokuk, Iowa	1,803 59	
"	Kellogg, Birge & Co	" "	27 44	
"	A. S. Gaylord	Saginaw City		$274 48
505	Robert Seaman	New York	200 40	
"	Gruber & Martin	Charleston, S. C	649 47	
517	Gould & Brothers	Chicago	1,870 86	
520	*Hicks, Elliott & Shrayer*	*Logansport*	297 51	
"	Hicks, Elliott & Shrayer	"	145 98	
524	A. A. Willard	Wilmington, N. C	830 68	
530	Trumbull & Co	Philadelphia, P'a	22 90	
532	John M. Furman	New York	560 20	
532	*John M. Furman*	"	6 77	
534	Goodrich & Terry	Milwaukee, Wis	477 52	
536	*H. & S. Stevens*	*Zanesville, Ohio*	787 00	
536	W. & S. Stevens	"	236 45	

EXHIBIT 12—Continued.

			D'R.	C'R.
549	B. C. Baker, Son & Co	New York		15,000 00
554	S. Van Benschoten & Co	"	466 56	
560	Jewett & Wright	Newark, Ohio	4,193 50	
575	*A. W. Buskirk*	*Portsmouth, Ohio*	1,114 93	
576	H. & G. B. Farrington	New York	1,158 76	
581	*W. F. Weld & Co*	*Boston, Mass*		15,653 95
582	Shields & Boucher	Pittsburg P'a	3,956 44	
588	Charles Luling & Co	New York		600 00
595	Cha's Starker & Co	Burlington, Iowa	2,197 98	
603	Smith & Hay	Springfield, Ill	533 47	
605	Earle & Co	New York	6,454 46	
609	V. F. Hills	Delaware, Ohio	741 25	
614	*Edward Harris & Co*	*Buffalo, N. Y*	147 91	
615	Terry, Wheat & Chesney	Louisville, K'y	2,700 72	
616	*Bynner & Boyce*	*New York*	249 50	
"	*Boyd & Arthur*	*Toronto, C. W*	3,482 65	
"	Boyd & Arthur	"	37 44	
619	Waggener, Johnson & Co	Syracuse, N. Y	473 50	
621	Bennett, Schenck & Co	New York	1,268 39	
"	*Carillier & Co*	*Montreal, C. E*	2,739 96	
"	Cavillier & Co	"	37 23	
622	Baker & Cunningham	Cairo, Ill	30 00	
623	Hilton & Randall	Savannah, G'a	740 49	
624	Allin & McDonald, 132 & 4 Front s't	N. Y	250 00	
627	Leynon, Schoonover & Co	New Albany, Ind	21 50	
78				
631	*Sturgis, Arnold & Co*	*New York*		$101,761 65
632	*Wadley, Jones & Co*	*Boston, Mass*	$679 73	
633	*Arbuckles & Co*	*Pittsburgh, P'a*	785 86	
636	*Wason, Pierce & Co*	*Boston, Mass*	422 33	
643	Strode, Ruby & Co	S't Louis, M'o	3,201 41	
644	Lawton & Co	New York		1,395 85
644	Ja's D. Sparkman, "*pepper ac*"	"	559 93	7 81
646	*A. D. Grieff*	"	1,656 75	
648	*Importation of Java coffee from Padang*, No. 1		1,441 00	
649	Herder, Hall & Co	New York	352 00	
650	Henry Ayers & Co	Little Rock, Ark	460 53	
653	*A. Englehardt & Co*	*Louisville, K'y*	717 03	
658	*S. T. Knapp & Bro*	*New York*	257 92	
660	Harris, Gaines & Co.	"	1,601 58	
664	Disbursements in Washington		1,839 90	
665	*Newcombe, Buchanan & Co*	*Louisville, K'y*	9,809 64	
666	Henry Butman	New York	6,921 38	
669	Waldron, Wrightman & Co	Providence, R. I	274 62	
"	Block, Lehman & Co	Cincin., Ohio		54 70
673	*W. J. & J. Clarke*	*Lexington, K'y*	723 41	
"	Griffin Bro's & Co	Baltimore, M'd	3,159 12	
677	E. L. Roberts	New York	500 00	
677	Shores, Staley & Co	Chicago, Ill	5,613 68	
"	Jackson & Picket	New York		655 48
679	Ja's A. Palmer & Sons	"	639 50	
	P. C. Tomson	*Philadelphia, P'a*	50 45	1,849 41
682	Ketchum, Brigham & Co	Toledo, Ohio	1,883 73	
683	Pulliam, Jones & Co	Raleigh, N. C	418 00	
"	G. M. Bayley & Co	New Orleans, L'a	7,482 19	
684	*W. J. McCahn & Co*	*Philadelphia, P'a*	585 73	
"	B. C. Baker Sons & Co	132-4 Front s't, N. Y.	200 00	
685	H. Bischoff & Co	Charleston, S. C	3,337 97	
"	Thomas A. Parker	Detroit, Mich	115 25	

EXHIBIT 12—Continued.

			D'R.	C'R.
689	*H. Guckenheimer & Bro*	*Pittsburg, P'a*	161 61	
"	*Importation coffee* *4, *ex P. C. Warwick, from Rio de Janeiro*			70,842 77
"	Importation coffee *4, ex P. C. Warwick, from Rio de Janeiro			25,372 96
690	C. H. Garrison	Troy, N. Y	1,664 45	
"	*Importation coffee* *1, *ex Francis Milly, from Colombo, Ceylon*		7,762 57	
690 79	Importation coffee *1, ex Francis Milly, from Colombo, Ceylon		$4,124 98	
"	*Importation Java Coffee* *1, *ex Dunmore, Padang*		9,378 63	
"	Importation tea, *1		6,000 00	
692	Importation tea, *1	Yokohama, Japan	8,001 25	
"	Importation tea, *1	Foochow	5,251 25	
693	Richard S. Place	Shanghai	83 33	
"	F. H. Kean & Bro.	132½ Front s't, N. Y.	1,305 86	
696	E. L. Roberts	Louisville, K'y	141 67	
"	Ring, Ross & Roberts	132-4 Front s't, N. Y.	83 33	
697	Marsh, Coe & Wallis	"	2,697 44	
700	Grand Trunk Railroad	New York		$112 42
700	Joint account with T. M. Turlay		112 42	
"	*Sinclair & Trimble*	*Philadelphia, P'a*	732 19	
701	Geo. W. Rowland	Norfolk, V'a	1,014 38	
708	J. J. Woodbridge	" "	231 48	
714	Aaron T. Lawrence	132-4 Front s't, N. Y.	165 00	
718	Edw. W. Wilson	" "	143 00	
719	Place, Trigg & Co.	New York		493 12
730	Fletcher Place	"	1,139 00	
733	R. M. Dodson & Co.	Cincinnati, O.	144 75	
736	Lane & Bartlett	Louisville, K'y	3,666 77	
748	H. Austin Brewster	Rochester, N. Y	132 87	
750	Rufus D. Chase	New York	1,175 37	
751	*Sawssa & Ennis*	*Washington, D. C*	331 20	
756	Geo. W. Williams & Co	Charleston, S. C	268 79	
758	*Carpenter, Maple & Co.*	*Columbus, Ohio*	1,441 79	
759	*Wheeler & Riggs*	*Evansville, Ind*	2,777 98	
774	*Henry Eyre*	*New York*	535 10	
776	Husted, Wetmore & Titus	"	210 99	
777	Russell Bro's	Chicago, Ill	9,249 46	
779	Valk Bro's	New York	70 04	
789	*George W. Griffin*	"	237 80	
"	F. H. McCready	"	100 00	
783	*S. H. Thompson & Co*	*Peoria, Ill*	1,617 92	
788	*George S. Scott*	*Montreal, C. E.*	127 71	
790	Henry Chapman	Phil'a, P'a	210 50	
791	Norris, Taylor & Co	St. Louis, M'o	265 48	
795	E. & R. Mead, j'r, & Co	New York	1,242 68	
796	Dorsey & Billups	Baltimore, M'd	11 68	
797	L. H. Randall	Grand Rapids, Mich.	400 77	
798	Seiple & Shimer	Allentown, P'a	478 53	
798	*Woods, Montague & Co.*	*Baltimore, M'd*	14,359 13	
800	Place & Turlay, *special No.* 1			2,808 00
800	L. Frost & Co., *special*		6,344 40	
80				
800	Place & Turlay, *special* *2		$32,400 50	
"	Cash balance on hand		172,957 54	
	Cash balance on hand		13,874 10	
	Samuel Wilde's Son		252 45	

*L. W. B, j'r, *New York.*

The losses of the firm for that year do not appear in such trial-balance, the profit and loss account having been left incomplete. The assets are in the column on the left and the liabilities in that on the right. If Mr. Sparkman had been at that time charged with his share of the losses of the firm for 1866, the amount of his capital would have appeared to have been, and by such losses such amount was, in fact, reduced to about $160,000. I recognize the check now produced and shown to me, as follows:

NEW YORK, *Nov'r 19th*, 1857.

Metropolitan National Bank: Pay to the order of Fisk & Hatch ninety-nine thousand five hundred and fifty-three $\frac{12}{100}$ dollars.
$99,553.12.

J. K. PLACE & CO.,
By L. W. BURRITT, J'R, *Att'y.*

(Stamped on the face:) "Certified—August, Teller, Nov'r 19th. Metropolitan National Bank." Endorsed, "Fisk & Hatch."

The filling up and signatures are in my handwriting; the endorsement I don't know; it purports to be Fisk & Hatch. I think it was delivered and paid to Fisk & Hatch. It was given for about $92,000 in 5-20 bonds. I think a portion of these bonds was delivered to Von Hoffman & Co., or delivered in their office, I think, by myself; and a portion of them to Daniel St. Amant, or delivered in his office. We received in return from Von Hoffman & Co. a corresponding amount of either 7-30's or 5-20's; I don't remember which. Among the securities which were returned by Von Hoffman & Co. and Daniel St. Amant there were
$26,000 in U. S. 7-30's, second series, numbered 75207 to 75232,
81 inclusive; and $14,000 U. S. 5-20 bonds, known as 67's, numbered 24399 to 21412, inclusive. These bonds have been under hypothecation with L. Von Hoffman & Co. and Daniel St. Amant for loans of money made by these firms, respectively, to James K. Place and Co. Those numbered 24399 to 24412, inclusive, came into the possession of James K. Place & Co. in July, 1867; they were the result of a conversion of $14,000 7-30's of the first series which were converted in July, 1867, into the said 5-20's, numbered 24399 to 24412. I think I made that conversion. The following account from the ledger of James K. & E. B. Place, (which was afterwards used by J. K. Place & Co.,) at page 108, relates to those bonds:

EXHIBIT 13.

United States 7 3-10 bonds.

J. K. & E. B. P. (In red ink.)

1865.		D'R.				
Mar. 17.	To cash	Aug..	131	$50,175 00		
May 3.	"	June.	168	98,765 00		
Sep. 25.	"	Aug..	263	6,019 20		
	"	June.	"	4,051 60		
Nov. 30.	" interest		241	6,691 20		
						$165,702 00

1865.		C'R.			
Aug. 15.	By cash	234	1,825 00		
Nov. 30.	J. K. Place	253	34,816 77		
"	E. B. Place	"	34,816 78		
"	Balance		94,243 45		
					$165,702 00

1865.		D'R.			
Nov. 30.	To balance			94,243 45	
1865.					
Dec. 15.	" sundries		7	210 00	
1866.					
June 21.	" "		57	1,540 00	
Dec. 31.	Interest		83	3,708 57	
"	J. K. & E. B. P., No. 3		88	1,216 26	
					$100,918 28
1865.		C'R.			
Dec. 15.	By cash		319	$3,796 00	
1866.					
Feb. 15.	"		37	2,044 00	
June 6.	"		129	43,929 90	
82 June 16.	By cash		136	$1,241 00	
July 7.	"		152	8,315 20	
Aug. 14.	"		176	511 00	
Dec. 15.	"		293	949 00	
31.	"	U. S. 7 3-10 bonds, J. D. S.	88	40,132 18	
					$100,918 28

EXHIBIT 14.

United States 7 3-10 *bonds.*

J. D. Sparkman. (In red ink.)

1866.		D'R.			
Dec. 31.	To U. S. 7 3-10 bonds, J. K. & E. B. Place		88	$40,132 18	
1867.					
June 30.	Interest		137	1,388 52	
					$41,520 70
1867.		C'R.			
Feb. 15.	By cash		40	511 00	
June 15.	"		125	949 00	
" 30.	By balance			40,060 70	
					$41,520 70
1867.		D'R.			
June 30.	To balance			40,060 70	
Nov. 20.	" interest		183	1,106 80	
					$41,167 50
1867.		C'R.			
Aug. 9.	By cash		160	367 50	
Nov. 20.	By J. D. Sparkman		182	40,800 00	
					$41,167 50

The handwriting of the ledger-entry, under date of Nov. 20th, 1867, "By J. D. Sparkman, $40,800," is that of John B. Morgan. I produce the journal-entry corresponding to that ledger-entry at page 182 of the journal in the handwriting of John B. Morgan, as follows:

James D. Sparkman to sundries.

U. S. 7-30's, J. D. S., for balance acc't			$40,800 00
U. S. Watch Co.,	"	"	1,102 53
Marion Building Co.,	"	"	1,112 53

83 After I became assignee for James K. Place & Co., I did not obtain any information as to whether these bonds had or had not been delivered to James D Sparkman. On the 23d day of December, 1867, M'r Thomas T. Sheffield and myself received a document, under seal, from James K. Place and James D. Sparkman, which I now produce, as follows:

EXHIBIT 15.

Assignment to Burritt & Sheffield.

This indenture, made the twenty-third day of December, in the year one thousand eight hundred and sixty-seven, between James K. Place and James D. Sparkman, severally of the city of New York, and heretofore trading and doing business in copartnership under the name and firm of James K. Place & Co., parties of the first part, and Lewis W. Burritt, j'r, and Thomas T. Sheffield, severally of the city of Brooklyn, parties of the second part.

Whereas the said parties of the first part have become insolvent and unable to pay their debts in full, and desire that their property shall be applied to the payment of their debts and liabilities so far as it will pay the same:

Now, therefore, this indenture witnesseth that the said parties of the first part, for and in consideration of the premises and of the sum of one dollar to them in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, have granted, bargained, sold, assigned, transferred, and set over, and by these presents do jointly and severally grant, bargain, sell, assign, transfer, and set over unto the said parties of the second part, their successors and assigns, all and singular the lands, tenements, real estate, chattels real, stock in trade, merchandise, goods, chattels, furniture, fixtures, debts, claims, demands, accounts, books of account, agreements, covenants, judgments, bonds, notes, bills of exchange, drafts, choses in action, stocks, rights, interests, leases, leasehold premises, and property of every kind and description, whether real, personal, or mixed, of whatsoever kind and wheresoever situated, in the possession of, or belonging to, the said parties of the first part, jointly and severally, or to which they or either of them, jointly or severally, have any estate, right, title, interest, claim, or demand whatsoever in law or in equity, to have and to hold all and singular the property and effects hereby sold and assigned, or intended so to be, and every part and parcel thereof, unto the said parties of the second part, their successors and assigns, to and for their own proper use, benefit, and behoof forever. In trust, nevertheless, and for the uses and purposes following, that is to say, to sell, convey, dispose of, and convert into money all and singular the property and effects hereby sold and assigned, or intended so to be, and with the proceeds thereof, after paying therefrom the costs, charges, and expenses of executing the trusts hereby created, so far only as they may lawfully pay the same, to pay all the debts and liabilities of the said parties of the first part, jointly and severally, of whatsoever kind and to whomsoever the same may be due and owing, without any priority or preference whatsoever, except only so far as is provided for by the laws of the States of New York and of the United States, so that if such proceeds shall be sufficient for that purpose, every claim or demand in law or in equity, against the said parties of the first part, jointly or severally, whether due or to become due, shall be fully paid and satisfied; but if the said proceeds shall be insufficient to pay the said debts and liabilities in full, then to pay and divide the whole of said proceeds to and among all the creditors of the said parties of the first part, as joint or several debtors, pro rata, and without any priority or preference, except such as may be given by the laws of the State of New York and of the United States, so that each creditor of the said parties of the first part, or either of them, shall have and receive his just and equal portion thereof.

84

And the said parties of the second part hereby accept the trusts hereby created, and agree to and with the said parties of the first part, and their creditors, jointly and severally, to execute and perform said trusts to the best of their knowledge, skill, and ability.

In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

JAMES K. PLACE. [SEAL.]
JAMES D. SPARKMAN. [SEAL.]
LEWIS W. BURRITT, J'R. [SEAL.]
T. T. SHEFFIELD. [SEAL.]

Sealed and delivered in the presence of—
JAMES P. CAMPBELL,
Notary Public, N. Y. County.

STATE OF NEW YORK,
City and County of New York, ss:

85 On the twenty-third day of December, in the year 1867, before me personally came James K. Place, James D. Sparkman, Lewis W. Burritt, j'r, and Thomas T. Sheffield, severally known to me to be the same persons described in and who executed the foregoing instrument, and severally acknowledged that they executed the same.

JAMES J. CAMPBELL,
Notary Public, N. Y. County.

Recorded in the office of the clerk of the city and county of New York, December 23d, 1867, 2 o'clock, 12 m., vol. 12, page 705, record of assignments.

CHA'S E. LOEW, *Clerk.*

REGISTER'S OFFICE,
City and County of New York, ss:

I hereby certify that the foregoing instrument was this day recorded in the office of the register of the city and county of New York, in liber 1047 of conveyances, page 493, at one o'clock and 40 minutes p. m.

In witness whereof I have hereunto set my hand and official seal this 17th day of May, 1868.

[REGISTER'S SEAL.] CHARLES G. HALPINE,
Register.

At that time J. K. Place & Co. were insolvent, and unable to pay their debts and their individual liabilities by the sum of $600,000 at least; the value of the assets which came into the hands of myself and M'r Sheffield under that assignment was about $400,000. Evidences of debt against Sparkman, Place & King came into possession of M'r Sheffield and myself as assignees. We received notes of the firm of Sparkman, Place & King; those notes were the property of James K. Place & Co., and the amount was about $60,000. James D. Sparkman was the president of that corporation, and James T. Sparkman was the secretary thereof. The said notes were given for loans of money made by J. K. Place & Co., to Sparkman, Place & King, in the year '67. The notes were dated in October and November, 1867, and matured at 12 months from their respective dates.

LEWIS W. BURRITT, J'R.

Subscribed and sworn to before me this 26th July, 1870.

R. E. STILWELL
Special Examiner.

86 EXHIBIT 16.

[U. S. int. rev. stamps, $20.]

Articles of agreement, made and entered into the first day of December, in the year one thousand eight hundred and sixty-five, between James K. Place, of the city of New York, of the first part, and James D. Sparkman, of the same place, of the second part, witnesseth:

That the said parties to these presents do join themselves together to be copartners in the business of importing, buying, vending, and dealing in groceries and other merchandise, in the city of New York, under the name, style, and firm of James K. Place & Company, which said copartnership is to commence on the first day of December, one thousand eight hundred and sixty-five, and is to continue until the thirty-first day of December, in the year one thousand eight hundred and sixty-eight; and to that end and purpose the said party of the first part is to contribute and pay into the capital stock of said copartnership the sum of six hundred thousand dollars, and the said party of the second part is to contribute and pay into the capital stock of said copartnership the sum of two hundred thousand dollars.

And the said parties to these presents mutually covenant, promise, and agree to and with each other as follows, that is to say:

First. That the said sum of money to be contributed as aforesaid by the several parties to these presents shall be used in the prosecution of the said partnership business, and shall be kept invested and be employed in said copartnership as the capital stock thereof during the continuance of said copartnership.

Second. That the said parties to these presents, and each of them, shall and will, at all times during the continuance of the said copartnership, use their utmost skill, diligence, power, and ability to prosecute the said copartnership business in a successful and profitable manner, and employ, buy, and sell merchandise with the capital stock aforesaid and the increase thereof, if any, in the said business, to the best of their skill and ability.

Third. That there shall be paid out of the funds of the said copartnership all rents, costs, charges, and expenses attending the said copartnership business, and the conducting and carrying on of the same.

Fourth. That all gain, profit, and increase that shall be obtained by means of said copartnership business shall, from time to time during the continuance of said copartnership, be divided between the
87 parties to these presents in the proportions following, that is to say: That the said party of the first part shall have and receive three equal fourth parts thereof, and the said party of the second part the remaining one-fourth part thereof.

Fifth. That all such losses as shall happen to said copartnership by bad debts or otherwise shall be borne by and between the parties to these presents in the same proportion that they are to divide the profits thereof as hereby provided for.

Sixth. That there shall be provided and kept at all times during the continuance of the said copartnership just, true, and perfect books of account, in which the said parties to these presents shall enter, or cause to be entered, all matters and things whatsoever relating to the said copartnership business and the prosecution thereof, which said books shall be used in common between the parties to these presents, so that either of of them may have free access thereto without any interferenc of the other.

Seventh. That neither of the said parties to these presents shall or will, during the continuance of the said copartnership, without the writ-

ten consent of the other, in any manner use or employ the copartnership name out of the regular and legitimate business of the said copartnership, and neither of said parties shall or will, without a like consent, in the name of the copartnership, or in his individual name, sign or endorse any commercial paper, or enter into any obligation, or incur any liability, or become security, except in the proper legitimate business of the said copartnership.

Eighth. Upon the dissolution or termination of said copartnership there shall be paid out of the property and effects of the said copartnership all the debts and liabilities of the said copartnership; in the next place there shall be paid to each of the parties to these presents the amount contributed and paid in by them severally to the capital stock of the said copartnership, unless the same shall have been impaired and any part thereof lost, in which event the residue of said property and effects of said copartnership or the proceeds thereof shall be divided among the parties to these presents in the proportion in which they shall have severally contributed to said capital stock; and in the next place there shall be paid to the said parties to these presents such sums as will equalize the profits drawn by the copartners in the proportion that they are entitled to the same, if either of said copartners shall have left in said copartnership his share of the profits of said copartnership
88 business or a part or portion thereof; and what shall remain of the property and effects of said copartnership after the repayment of the capital stock as aforesaid shall be paid and divided to and among the parties to these presents in the proportion in which they are severally entitled to the profits of the said copartnership.

In witness whereof the parties to these presents have hereunto set their respective hands and seals the day and year first above written.

JAMES K. PLACE. [L. S.]
JAMES D. SPARKMAN. [L. S.]

Sealed and delivered in the presence of—
LEWIS W. BURRIT, J'r, as to both signatures.

EXHIBIT 17.

(The items in italics are in red ink in the original.)

Trial-balance—November 30, 1865.

Journal B, J. K. & E. B. Place.

			D'R.	C'R.
21	Ja's K. Place, loan ac	New York	$5,622 50	
5	do in trust	"	466 00	
6	M'r's D. Place	"	131 40	
7	M'r's H. Barker	"	2,644 46	
9	Isaac Stevens	New York		$1,975 00
10	Real Estate, Milwaukee	"	102 70	
11	M'r's E. Stevens	"		2,317 00
12	R. S. Place	"	100 00	
14	Barker Place	"		391 67
15	J. D. Sparkman	"		2,365 00
19	Peter Schersten	"		1,642 50
20	R. Ten Broeck	"		852 50
21	Manufacturers' Bank	"		25,000 00
21	*Manufacturers' Bank*	"		4,000 00
21	*Manufacturers' Bank*	"	6,200 00	

EXHIBIT 17—Continued.

			D'R.	C'R.
22	Real estate, 217 Grand s't	Jersey City, N. J		410 18
23	A. S. Anderson	Buffalo, N. Y		25,000 00
24	Robert Reade	New York		4,000 00
25	Daniel B. Alger	"		6,625 00
26	John Coleman	"	200 00	
27	L. W. Burritt, j'r	"		100 00
30	John B. Morgan	"		116 00
33	L. W. Burritt	Stratford, Conn		1,148 55
34	John C. Wright	Indianapo'is, Ind	733 97	
89				
36	*Day, Allen & Co*	*Chicago, Ill*		$690 20
42	Day, Allen & Co	"		4,597 30
49	*Metropolitan Bank*	New York	$36,250 00	25,000 00
50	*Park National Bank*	"		25,000 00
51	E. Pavenstedt & Co	"	72,500 00	50,000 00
56	M'r's S. P. Perry	Brooklyn, N. Y		3,001 50
61	Cha's A. Meigs & Son	New York	50,000 00	
64	Burger, Hurlburt & L	"	25,000 00	
69	L. Frost & Co	Nebraska, N. T	46,071 08	
76	*L. Frost & Co., gold ac*	" "	42,000 00	60,262 12
84	Premium on specie			563,294 29
88	*Dabney, Morgan & Co*	*New York*	52 34	
90	*J. A. Robinson*	"	221,981 25	150,000 00
92	Place & Turlay	New York		4,867 00
104	Jos. S. Barker	Sing Sing, N. Y		9,200 00
106	Titus, Smythe & Co	New York	9,000 00	
107	Geo. E. Ring	"	60 00	
109	*Muller & Brown*	"	224,350 00	159,000 00
117	*W. H. Phillips*	"	142,500 00	95,000 00
118	Silkman & Ten Broeck	"		1,000 00
122	O. W. F. Randolph	"		100,000 00
124	Fisk & Hatch	"	50,000 00	
125	*Grinnell, Minturn & Co*	"	178,000 00	195,000 00
127	Whitaker, Harmon & Co	Chicago, Ill		391 19
133	*J. K. Place, gold ac*	*New York*	42,000 00	60,000 00
135	*W. H. Fogg & Co*	"	80,000 00	84,000 00
271	*W. G. Ray*	"	20,000 00	13,500 00
272	G. C. Von Uslar	"	25 00	
272	Jos. L. Jauncey	New York	135 00	
"	Charles Place	"	3,000 00	
"	Henry Baldwin	"	40 00	
273	*George Wells, j'r*	"		2,500 00
"	S. Barstow	"	200 00	
"	Frederick Smith	"	300 00	
"	Joseph Benedict	"	300 00	
"	E. Mooney	"	500 00	
"	J. W. Macaulay	"	3,000 00	
2	Jas. K. Place	"		227,301 62
6	Ephraim B. Place	"		168,529 96
10	Jas. D. Sparkman	"		262,719 48
12	Merchandise		1,474,623 44	
32	Bills receivable		337,417 20	
36	Bills payable			1,246,777 08
41	Real estate, Front s't	New York	120,089 00	
43	Bond and mortgage	Buffalo	1,925 00	
44	Real estate, Michigan	Abbot lands	1,202 00	
45	Real estate	Saginaw City, Mich		655 00
90				
46	Real estate	East Saginaw, Mich		$1,303 47

EXHIBIT 17—Continued.

			D'R.	C'R.
47	Ferry stock	Brooklyn, N. Y.	$853 00	
49	Humboldt Ins. Co	New York	1,302 00	
50	Allaire Works	"	4,640 00	
51	N. Y. Nevada Mining Co		3,373 00	
52	Metropolitan Bank stock		6,250 00	
53	Union Sugar Co		21,513 00	
58	J. K. P., orphan asylum property		610 00	
61	Profit and loss, 1865			4,895 00
62	Joseph Lusk	New York		188 00
65	Joseph F. Randolph	"		112 50
66	C. R. Stilwell	New York		58 34
67	A. W. Cruikshank	"		92 50
68	John B. Morgan	"		147 00
71	L. W. Burritt, j'r	"		246 67
74	D. B. Alger	"		66 67
76	W. H. Gibson	"		33 33
79	Joel White	"		110 00
81	Geo. F. Gibson	"		213 33
83	Lots on 43d street	"	685 70	
84	Henry Groth	"		50 00
86	Fifth ave., cor 47th s't	"	10,028 35	
87	Corn Exchange Ins. Co	"	3,596 00	
102	Profit and loss, 1861			101 75
104	do. 1860			80 00
105	do. 1858			450 00
106	do. 1859			142 93
107	do. 1864			2,851 86
108	U. S. 7 3-10 bonds		94,243 45	
109	U. S. compound-int. notes		3,500 00	
111	*J. K. & E. B. Place, No. 3*		1,356 25	
116	G. L. Montgomery	New York		66 67
117	Pelham W. Warren	"		33 33
132	E. B. Place, bond and mortgage			78,600 00
133	J. P. Giraud, j'r, ex'or	New York		41,400 00
34	*O. C. Hatch*	"		78 99
"	O. C. Hatch	"		53 54
"	S. Barstow & Son	"		41 36
"	J. F Hartshorn & Son	Boston, Mass		16 57
"	Cha's Smith	Philadelphia, P'a		1 75
"	N. Y. Gaslight Co	New York		19 13
"	L. H. Biglow	"		29 25
"	Fountain Churchill	"		255 99
"	R. M. Lockwood & Co	"		149 73
"	W. R. Seaver	"		34 22
91				
134	Woodruff & Robinsons	New York		$88 67
"	J. K. Ford	"		12 00
"	Snyder & Sons	"		154 08
"	*Recknagel & Co*	"		6,458 00
"	*Schmilinsky, Lots & Co*	"		17,624 82
"	O. S. Kimball	"		7 81
"	W. P. Moody	"		4 45
"	J. R. Mullany	"		71 00
"	*Thatcher & Bazing*	"		61 15
"	H. B. Wardell	"		39 75
"	Cha's E. Findlay	"		93 25
"	H. B. Watson	"		23 22
"	H. W. Henning	"		23 30
"	B. P. Baker & Co	"		23 74
"	O. W. F. Randolph	"		39 36

EXHIBIT 17—Continued.

			D'R.	C'R.
"	Jackson, Woodruff & Co	"		65 00
134 & 135	*Maitland, Phelps & Co*	"		51,062 09
135	Napier & Welsford	"		82,600 00
135	Cha's Luling & Co	"		23,600 00
"	Hallett & Robins	"		167 40
"	*A. A. Low & Bros*	"		145,664 21
"	Coe & Lawrence	"		382 90
"	Weston & Gray	"		120 83
"	Henry Love	"		1 59
"	Colin Lightbody	"		86 56
"	Miller & Conger	"		36 06
"	W'm Goldey	"		34 26
"	R. H. Leathem	"		13 67
"	Bowerman Bro's	"		13 47
135	E. S. Taylor & Co	New York		36 20
"	*E. S. Taylor & Co*	"		10 72
"	M. Hackett	"		4 71
"	Boston Wharf Co	Boston, Mass		39 90
"	H. H. Lemcke	New York		102 43
"	Jay L. Adams	"		42 15
"	Marsh & Haynes	Chicago, Ill		250 94
"	C. Doyle	New York		125 00
"	John Fortner	"		50 00
"	Cha's Wilson	"		50 00
"	Frank Meyer	"		50 00
"	McIlvain & Young	"		16 33
139	B. P. & H. Rogers	Suspense ac	$22 93	
"	Harvey Church	"	50 00	
"	Hiram Robbins	"	100 00	
"	R. W. Pride & Co	"	100 00	
"	Geo. Nicholls	"	200 00	
92				
139	Lanyon, Smith & Co	Suspense ac	$20 00	
"	Burns & Vance	"	100 00	
"	S. W. Adams & Co	"	1,000 00	
"	Harrington & Brewster	"	30 00	
"	H. B. Newcomb & Co	"	50 00	
"	Sam'l Dobbins	"	100 00	
"	Beach, Moores & Co	"	1,880 30	
140	Davenport & Son	New York		$561 43
147	Phelps & Smith	Marshall, Mich	873 08	
152 & 598	J. C. Raquet & Co	S't Paul, Minn	3,103 43	
153	W'm M. Sinclair	Milwaukee, Wis	6,153 73	
154	Michael Doyle	Newburgh, N. Y	750 78	
158	Alonzo Rowley	Utica, N. Y	274 10	
160	Hinsdale, Sibley & Endicott	Chicago, Ill's	57,483 39	
163	J. & W. B. Brooks	Columbus, O	6,876 13	
169	S. T. Murray	Niagara Falls, N. Y	719 25	
172	Crabbs & Benson	Toledo, O	3,537 53	
179	G. & R. McMillan	Detroit, Michigan	6,875 43	
181	Stearns & Forsyth	Chicago, Ill's	11,283 97	
196	J. L. Bradford	Buffalo, N. Y	120 56	
"	*J. L. Bradford*	"	1,688 56	
197	J. C. Bridges & Co	Baltimore, M'd	3,706 75	
198	Ja's H. Laws & Co	Cincinnati, O		2,651 15
199	*Geo. F. Gilman*	New York	7,327 98	
200	Howell, Barr & Co	"	23,998 93	
201	U. S. certificate indebtedness		55,041 96	
204	White Bro's & Co	Cincinnati, O	21,750 36	
208	Brown, Butler & Co	"	7,874 78	

EXHIBIT 17—Continued.

			D'R.	C'R.
210	McKenna & Radcliff	Detroit, Mich	1,663 50	
215	A. S. Anderson	Buffalo, N. Y		6,211 87
217	Dutcher, Ball & G	Milwaukee, Wis	2,039 39	
219	Satterlee, Wells & T	Chicago, Ill's	5,453 00	
223	P. F. McQuillan	S't Paul, Minn	2,741 67	
228	Miller & Greiner	Buffalo, N. Y	13,085,88	
230	L. Frost & Co	Nebraska C'y, N. T	59,586 02	
235	Day, Allen & Co	Chicago, Ill's	88,832 08	
239	Place & Turlay	New York		613 28
"	*Place & Turlay*	"	2,596 22	
243	L. W. Tinker & Co	Detroit, Mich	900 00	
245	Smith Bro's	Chicago, Ill's	1,841 85	
247	Rowland, Sperry & Co	Oincinnati, O	3 50	
249	Wintringham & W	New York	426 14	
256	H. Garretson & Co	Cleveland	1,150 12	
259	Edwards, Townsend & Co	"	2,101 74	
268	Moore, Foote & Co	Detroit, Mich	203 35	
93				
279	W. H. Hayden & Co	Chicago, Ill's	$47,459 45	
282	Ladd, Williams & Young	" "	7,090 05	
290	H. H. Lippincott & T	Phila., Penn	2,463 29	$44 13
292	*Morrill, Castleman & Co*	Louisville, K'y	3,025 72	
296	M. W. Field & Co	Detroit, Mich	13,560 88	
300	Johnson & Wheeler	" "	18,458 23	
303	Sprague, Warner & Co	Chicago, Ill's	5,702 63	
307	*Baker & Co*	Cincinnati, O	37,817 67	23,000 00
311	Bell, Emerson & Co	Toledo, "	5,369 72	
314	*Hoppock, Glenn & Co*	*New York*	3,783 07	
"	" " "	"	4,247 58	
317	G. W. King & Co	Chicago, Ill's	9,352 54	
320	G. Brashears & Son	Cincinnati, O	1,242 92	
325	*William Glenn & Son*	" "	5,915 45	
327	Joint acc't Durand Bro's & P			526 02
331	*Leopold Schepp*	New York	1,123 45	
"	" "	"	4,732 15	
333	Wright, Gill es & Bro	"	6,525 69	
338	Beaupre & Kelly	S't Paul, Minn	2,550 55	
342	*Reeve, Case & Banks*	New York	14,910 32	
"	" " "	"	852 01	
569 & 343	Neise, Knoblack & Co	S't Louis, M'o	2,797 21	
349	G. W. Brainerd & Co	New York	1,007 40	
352	Redenour & Baker	Lawrence, K's	4,791 40	
488	J. Morgan Hall	New Orleans, L'a	606 16	
489	Smith & McKenna	" "		
"	Bansemer Bro's	La Fayette, Ind	524 33	
"	Bradburn, Williams & Co	Cleveland, O	994 73	
"	Flourney & Co	Paducah, K'y	819 59	
489	Bliss & Martin	Titusville, P'a	1,619 24	
"	Faile, Williams & Co	New York	8,237 72	
"	U. H. Dudley	"	207 71	
"	Ja's Cassidy	"	1,688 14	
"	W'm Huntrayer	Dubuque, Iowa	241 94	
"	Elliott, Ryan & Co	Indianapolis, Ind	577 49	
490	A. Ethridge & Co	Rome, N. Y	233 61	
"	Connolly, Wiles & Co	Indianapolis	2,533 76	
"	Walker & Co	S't Clair, Mich	1,401 72	
"	H. & A. Menonn	S't Louis, M'o	1,041 38	
"	A. C. Rossier & Co	New York	1,495 15	
"	Yale & Bryan	New Haven, Conn	225 00	
"	Pryor, Handlon & Co	Wheeling, V'a	872 31	
"	Bonsal & Co	Baltimore, M'd	1,948 32	
"	H. Vollars	Wilmington, N. C	62 00	

EXHIBIT 17—Continued.

94			D'R.	C'R.
490	Scott Bro's	Montgomery, Ala	449 89	
"	Masterton & Reamer	New York	5,557 57	
"	Geo. E. Ring	"	30 76	
"	M'r's Catlin	"	35 20	
"	Dusenbury & Anthony	Troy	3,898 03	
"	Connolly & Hanna	New York	984 23	
"	Bauer Bro's	"	141 92	
"	J. Ehle	"	118 80	
"	John Barton	"	15 18	
"	James Cassin	"	351 34	
"	Wetmore, Cryder & Co	"	142 00	
"	W. H. Fogg & Co	"	68 43	
501	R. D. Vandecarr & Co	Albany, N. Y	3 60	
502	A. S. Gaylord	Saginaw, Mich		$274 48
503	*William Barker*	*Cairo, Ill's*	2,219 15	1,019 60
507	*Dymond & Lally*	*New York*	39 00	831 64
508	*J. B. Wilgus & Co*	*Lexington K'y*	9,820 40	
513	*Fleck & Sherwood*	*Newark, O*	726 98	
"	" " "	" "	999 64	
514	*Preston Bro's*	*Evansville, Ind*	3,151 24	
517	A. T. Briggs	New York		254 20
520	Brooks, Stearns & Co	Columbus, O	351 81	
524	Von Phul, Waters & Co	S't Louis, Mo	2,639 80	
525	Smith & Bliss	Chicago, Ill's	6,355 14	
526	Durand Brothers, Powers & Co	" "	1,941 60	
527	*Sturges, Bennett & Co*	*New York*		113,580 32
528	D. A. January & Co	S't Louis, Mo	1,097 37	
531	*S. E. Gilbert & Co*	*Evansville Ind*	1,077 07	
533	*Place & Wilson*	*New York*		91 43
"	" " "	"		24 48
536	E. C. Small & Co	Baltimore, M'd		985 55
540	Hyland, Woods & Co	" "		771 72
544	Hunt & Sunderland	Burlington, Iowa	628 30	
545	Real est'e, Front street	New York	1,233 15	
546	*Bentley & Burton*	"	3,881 58	
"	" " "	"	476 52	
548	Carver, Wendover & Co	S't Louis, Mo	18,695 98	
550	Garbutt, Black & H	New York	1,858 48	
554	*S. Van Benschoten & Co*	"	15,575 59	2 50
556	*Smith, Wood & Co*	*S't Louis, Mo*	35,473 60	
557	O. W. Pierce & Co	La Fayette, Ind	5,956 54	
559	G. C. Buell	Rochester, N. Y	3,813 31	
561	Jones, Vinnedge & Jones	Indianapolis, Ind	270 30	
562	*C. Burkhalter & Co*	*New York*	1,434 51	
564	John Stephens & Co	Detroit, Mich	437 77	
95				
576	Farrington, Leonard & Co	New York	$914 69	
578	Charles Stoughton	"	2,589 44	
580	Ried, Murdock & Fisher	Chicago, Ill's	4,797 60	
"	*Ried, Murdock & Fisher*	" "	2,176 48	
581	Judson & Dodd	Indianapolis, Ind	2,072 03	
587	W. H. Crawford & Co	Baltimore, M'd	4,497 78	
600	*Gibson, Early & Co*	*Cincinnati, O*	28,481 70	
"	Gibson, Early & Co	Cincinnati, O	552 48	
602	Foote & Lindsley	New York	1,053 00	
603	*O. G. Kimball & Co*	*Boston, Mass*	26,998 76	
604	Fatjo, Marks & Co	New Orleans, L'a	290 17	
"	Ryan & Christy	S't Louis, Mo	2,594 89	
605	*Baschman Bro's & Co*	*S't Louis, Mo*	16,305 60	
"	" "	" "	226 35	
"	Earl & Co	New York	12,035 81	

EXHIBIT 17—Continued.

			D'R.	C'R.
606	Billings, Herrick & H	"		$157 20
"	*Teas replevied from S. Van Benschoten & Co*		149 04	13,324 82
696	E. L. Roberts	New York		429 17
697	Marsh, Coe & Wallis	"		462 14
699	Johnson, Mitchell & Co	Louisville, K'y.	2,812 06	
800	Grand Trunk Railroad			112 42
"	Thomas M. Turlay	New York	112 42	
702	Green & Button	Milwaukee, Wis	293 07	
703	*Foster & Bro*	*Cincinnati, O.*	1,456 95	
"	Jaycox & Green	Syracuse, N. Y.	883 20	
705	Wilson & Keach	S't Louis Mo	49 10	
707	*H. H. Landis*	*Phila., Penn*	2,340 00	
"	*E. A. & C. P. Low*	*New York*	37 60	
"	*W. B. Hunter & Co*	"		55,174 25
708	J. J. Woodbridge	Norfolk, V'a	231 48	
716	C. H. Garrison	Troy, N. Y.	189 00	
718	A. H. Andrews & Co	Cincinnati, O	3,735 10	
"	Edward W. Wilson	New York		83 34
719	Place, Trigg & Co	"		493 12
"	Gibson, Early & Co	"	41 67	
720	Manufacturers' Bank	"	166 68	
"	B. C. Baker, Son & Co	"	100 00	
728	Camp & Osborn	Newark, N. J	1,259 79	
730	Fletcher Place	New York	1,139 00	
731	Squires, Sherry & G	Troy, N. Y.	734 36	
733	R. M. Dodson & Co	Cincinnati, O	144 75	
734	Hutchings, Duncan & Co	Louisville, K'y	1,128 27	
736	John Snyder & Co	" "	7 18	
"	Lane & Bartlett	" "	3,652 83	
739	J. D. Minor & Co	Cincinnati, O	1,212 53	
96				
748	H. A. Brewster	Rochester, N. Y	$2,052 20	
750	E. D. Holman	Buffalo, N. Y	4,043 88	
754	M. A. Van Benschoten	New York, N. Y	2,889 70	
758	*Spencer & Porter*	"	44 27	
"	Bacon & Stickney	Albany, N. Y.	2,851 63	
759	Hoppock & Greenwood	New York	5,721 21	
761	*Bigmer & Boyce*	"	1,057 54	
763	Joyce & Jean	Baltimore, M'd.	300 00	
765	A. J. Brand	" "	42 68	
768	Thomas Lynch	Portland, M'e	62 00	
769	*Watterman, Son & Cope*	*Phila., Penn*	3,363 30	
770	*E. D. Morgan & Co*	*New York*		$126,965 00
"	W'm Banks	Boston, Mass		36 98
774	T. H. Hinchman	Detroit, Mich	3,026 35	
775	Peter Waggoner	Syracuse, N. Y.	334 26	
777	Kissell Bro's	Chicago, Ill	5,608 52	
"	J. P. Huntoon	Paterson, N. J	339 82	
"	*Matthew Hunt*	*S't Louis, Mo*	2,101 33	
777	Matthew Hunt	S't Louis, Mo	847 32	
779	*John L. Phipps & Co*	*New York*		114,646 44
780	Parker & Dixon	Cincinnati, O	313 30	
783	Baker, Rogers & Co	" "	13,774 39	
784	Collett & Carr	Akron, O	299 04	
786	E. H. Myers & Co	Pittsburgh, P'a	407 59	
"	*Park & Tilford*	*New York*	981 07	
788	Weller, Crew & Co	New Orleans, L'a	748 13	
"	Bennett & Gregory	Chicago, Ill	4,060 16	
790	H. A. Buskirk & Bro	Tiffin, Ohio	1,299 85	
"	*Gross, March & Co*	*New York*	865 30	
"	" " "	"	281 25	

EXHIBIT 17—Continued.

			D'R.	C'R.
"	Henry Chapman	Philadelphia, P'a	456 87	
791	*H. P. Lipscomb & Co*	*New York*		40 00
"	Norris, Taylor & Co	S't Louis, M'o	60 97	
"	J. Gould & Son	New York	1,245 45	
792	Macey, Barnewall & O	Mobile, Ala		10 00
800	Place & Turlay, special			2,610 43
"	L. Frost & Co., special		5,897 00	
"	Place & Turlay, " No. 2		60,116 67	
	Cash balance on hand		121,844 23	
	" *balance on hand*		15,026 89	
489	Smith & McKenna	New Orleans, L'a	701 41	
419	Titus, Smyth & Co	New York	104 17	
61	Profit and loss, 1865			2,000 00
	Error in day book, 22d May			50
			4,509,094 65	$4,509,094 65

97 EXHIBIT 18.

Formation of Sparkman, Place and King.

Know all men by these presents that we, James D. Sparkman, James K. Place, Charles Place, James T. Sparkman, all of the city and county of New York, and William King, of Perth Amboy, in the State of New Jersey, the persons whose names are hereunto subscribed, being desirous of forming a company for the purpose of carrying on a manufacturing and mechanical business, pursuant to the provisions of an act of the legislature of the State of New York entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical, or chemical purposes," passed February 17th, 1848, and the acts amendatory thereof, do hereby make, sign, and acknowledge a certificate in writing, pursuant to the provisions of said act, as follows, that is to say:

The corporate name of the said company shall be Sparkman, Place & King.

The objects for which the said company is formed are the importing, dealing in, and manufacturing of corks and whiting, and the grinding and dealing in drugs and paints.

The amount of the capital stock of the said company shall be the sum of one hundred and twenty thousand dollars.

The term of existence of the said company shall be fifty years.

The number of shares of which the capital stock of the said company shall consist shall be twelve hundred, of the par value of one hundred dollars per share; but such stock will not represent cash to be paid into said company, but the entire amount thereof will be issued by the trustees in payment for machinery and other property necessary for the business of the company.

The number of trustees who shall manage the affairs of the said company shall be seven, and the names of trustees who shall manage the affairs of the said company for the first year are J. K. Place, Charles Place, James D. Sparkman, James T. Sparkman, William King, Alexander H. Wallis, John L. Young.

98 The business and operations of the said company are to be carried on in the city of New York, in the county and State of New York.

In testimony whereof we have made and signed this certificate, at the city and within the county of New York, this second day of April, in the year one thousand eight hundred and sixty-seven.

JAMES D. SPARKMAN.
JAMES K. PLACE.
CHARLES PLACE.
JAMES T. SPARKMAN.
WILLIAM KING.

STATE OF NEW YORK,
City and County of New York, ss:

On this second day of April, in the year one thousand eight hundred and sixty-seven, before me personally appeared James D. Sparkman, James K. Place, Charles Place, James T. Sparkman, and William King, severally known to me to be the same persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same.

JAMES J. CAMPBELL,
Notary Public, N. Y. County.

(Endorsed:) Filed April 2d, 1867.

STATE OF NEW YORK,
City and County of New York, ss:

I, Charles E. Loew, clerk of the said city and county, and clerk of the supreme court of the said State for said county, do certify that I have compared the preceding with the original certificate of incorporation of "Sparkman, Place & King," on file in my office, and that the same is a correct transcript therefrom, and of the whole of said original.

In witness whereof I have hereunto subscribed my name and affixed my official seal, this 29th day of September, 1870.

[SEAL.] CHARLES E. LOEW, *Clerk.*

[Int. rev. stamp, five cents, can.]

99 Barker Place, being called for plaintiff, and duly sworn, testifies as follows:

My age is twenty-one years; residence, in the city of New York; occupation, merchant; I am acquainted with the defendants, James K. Place and James D. Sparkman; I am the son of James K. Place, and nephew by marriage of Mr Sparkman; the paper now produced and shown to me, marked "Exhibit 50, October , 1870," has my signature as that of the subscribing witness thereto; I saw James D. Sparkman execute that by signing it; I subscribed my name as a witness at the same time he signed it—immediately afterwards; the paper now shown to me, marked "Exhibit 51, October, 1870," has my signature as a subscribing witness; I saw James K. Place execute it by signing it, and I subscribed my name as a witness immediately afterwards; Mary A. Sparkman, the person named in Exhibit 51, was my aunt; that is, the wife of James D. Sparkman, and my father's sister; I don't know where the signing of those papers took place; have no recollection of the circumstances as to the place; I remember signing my name; I recollect no other circumstance; I do not mean to testify to anything, except that I recognize my own signature and the signatures of Messrs Place and Sparkman, and that I signed them at the time.

Q. In whose or what employment were you November 19th and 20th, 1867, and in what capacity?

A. The firm of James K. Place & Co., as clerk, with no special duty as clerk. I did not sign, nor see signed, any papers on either of those days, to my recollection. I don't know whether these papers were both executed at the same time. I have seen James K. Place and James D. Sparkman, and know their handwriting. The signatures on Exhibits 50 and 51, purporting to be theirs, are theirs.

(Copies of the exhibits referred to in the foregoing deposi-
100 tion are hereto annexed, marked respectively "Exhibits 50 and 51," and, by consent, are to have the same force and effect as the originals.)

BARKER PLACE.

Subscribed and sworn to before me this 13th day of October, 1870.

R. E. STILWELL,
Examiner, &c.

EXHIBIT 19.

Assignment of bonds.

Know all men by these presents that I, James D. Sparkman, of the city of New York, for and in consideration of the sum of forty thousand dollars to me in hand paid by James K. Place, of the same city, the receipt of which is hereby acknowledged, have sold, assigned, transferred, and set over, and by these presents do sell, assign, transfer, and set over unto the said James K. Place forty coupon-bonds of the United States, commonly called and known as seven-thirties, and bearing interest, in currency, at the rate of seven and three-tenths per cent., fourteen of which bonds are of the first series issued, and are each for the sum of one thousand dollars, and are severally numbered 118,478, (one hundred and eighteen thousand four hundred and seventy-eight,) 118,479, (one hundred and eighteen thousand four hundred and seventy-nine,) 118,480, (one hundred and eighteen thousand four hundred and eighty,) 118,481, (one hundred and eighteen thousand four hundred and eighty-one,) 116,167 (one hundred and sixteen thousand one hundred and sixty-seven,) 116,168, (one hundred and sixteen thousand one hundred and sixty-eight,) 116,169, (one hundred and sixteen thousand one hundred and sixty-nine,) 116,170, (one hundred and sixteen thousand one hundred and seventy,) 116,171, (one hundred and sixteen thousand one hundred and seventy-one,) 116,172, (one hundred and sixteen thousand one hundred and seventy-two,) 116,173, (one hundred and sixteen thousand one hundred and seventy-three,) 116,174, (one hundred and sixteen thousand one hundred and seventy-four,) 116,175, (one hundred and sixteen thousand one hundred and seventy-five,) 116,176, (one hundred and sixteen thousand one hundred and seventy-six;) and the remaining twenty-six of which bonds are of the second series issued, and are each for the sum of one thousand dollars, and are severally numbered 75,207, (seventy-five thousand two hun-
101 dred and seven,) 75,208, (seventy-five thousand two hundred and eight,) 75,209, (seventy-five thousand two hundred and nine,) 75,210, (seventy-five thousand two hundred and ten,) 75,211, (seventy-five thousand two hundred and eleven,) 75,212, (seventy-five thousand two hundred and twelve,) 75,213, (seventy-five thousand two hundred and thirteen,) 75,214, (seventy-five thousand two hundred and fourteen,) 75,215, (seventy-five thousand two hundred and fifteen,) 75,216, (seventy-five thousand two hundred and sixteen,) 75,217, (seventy-five thousand two hundred and seventeen,) 75,218, (seventy-five thousand two hun-

dred and eighteen,) 75,219, (seventy-five thousand two hundred and nineteen,) 75,220, (seventy-five thousand two hundred and twenty,) 75,221, (seventy-five thousand two hundred and twenty-one,) 75,222, seventy-five thousand two hundred and twenty-two,) 75,223, (seventy-five thousand two hundred and twenty-three,) 75,224, (seventy-five thousand two hundred and twenty-four,) 75,225, (seventy-five thousand two hundred and twenty-five,) 75,226, (seventy-five thousand two hundred and twenty-six,) 75,227, (seventy-five thousand two hundred and twenty-seven,) 75,228, (seventy-five thousand two hundred and twenty-eight,) 75,229, (seventy five thousand two hundred and twenty-nine,) 75,230, (seventy-five thousand two hundred and thirty,) 75,231, (seventy-five thousand two hundred and thirty-one,) 75,232, (seventy five thousand two hundred and thirty-two;) to have and to hold all, each and every of the said bonds, and all the money due and to grow due thereon, unto the said James K. Place, his executors, administrators, and assigns, to his and their own proper use, benefit, and behoof forever.

In witness whereof I, the said James D. Sparkman, have hereunto set my hand and seal this seventh day of June, in the year one thousand eight hundred and sixty-six.

JAMES D. SPARKMAN. [L. S.]

Sealed and delivered in the presence of—
BARKER PLACE.

EXHIBIT 20.

Assignment of bonds.

Know all men by these presents that I, James K. Place, of the city of New York, for and in consideration of the sum of forty thou-
102 sand dollars to me in hand paid by Mary Ann Sparkman, of the same city, the receipt of which is hereby acknowledged, have sold, assigned, transferred, and set over, and by these presents do sell, assign, transfer, and set over, unto the said Mary Ann Sparkman forty coupon-bonds of the United States, commonly called and known as seven-thirties, and bearing interest in currency at the rate of seven and three-tenths per cent.; fourteen of which bonds are of the first series issued, and are each of the sum of one thousand dollars, and are severally numbered 118,478, (one hundred and eighteen thousand four hundred and seventy-eight,) 118,479, (one hundred and eighteen thousand four hundred and seventy-nine,) 118,480, (one hundred and eighteen thousand four hundred and eighty,) 118,481, (one hundred and eighteen thousand four hundred and eighty-one,) 116,167, (one hundred and sixteen thousand one hundred and sixty-seven,) 116,168, (one hundred and sixteen thousand one hundred and sixty-eight,) 116,169, (one hundred and sixteen thousand one hundred and sixty-nine,) 116,170, (one hundred and sixteen thousand one hundred and seventy,) 116,171, (one hundred and sixteen thousand one hundred and seventy-one,) 116,172, one hundred and sixteen thousand one hundred and seventy-two,) 116,173, (one hundred and sixteen thousand one hundred and seventy-three,) 116,174, (one hundred and sixteen thousand one hundred and seventy-four,) 116,175, (one hundred and sixteen thousand one hundred and seventy-five,) 116,176, (one hundred and sixteen thousand one hundred and seventy-six;) and the remaining twenty-six of which bonds are of the second series issued, and are each for the sum of one thousand dollars, and are severally numbered 75,207, (seventy-five thousand two hundred and seven,) 75,208, (seventy-five thousand two hundred and

eight,) 75,209, (seventy-five thousand two hundred and nine, (75,210, (seventy-five thousand two hundred and ten,) 75,211, (seventy-five thousand two hundred and eleven,) 75,212, (seventy-five thousand two hundred and twelve,) 75,213, (seventy-five thousand two hundred and thirteen,) 75,214, (seventy-five thousand two hundred and fourteen,) 75,215, (seventy-five thousand two hundred and fifteen,) 75,216, (seventy-five thousand two hundred and sixteen,) 75,217, (seventy-five thousand two hundred and seventeen,) 75,218, (seventy-five thousand two hundred and eighteen,) 75,219, (seventy-five thousand two hundred and nineteen,) 75,220, (seventy-five thousand two hundred
103 and twenty,) 75,221, (seventy-five thousand two hundred and twenty-one,) 75,222, (seventy-five thousand two hundred and twenty two,) 75,223, (seventy-five thousand two hundred and twenty-three,) 75,224, (seventy-five thousand two hundred and twenty-four,) 75,225, (seventy-five thousand two hundred and twenty-five,) 75,226, (seventy-five thousand two hundred and twenty-six,) 75,227, (seventy-five thousand two hundred and twenty-seven,) 75,228, (seventy-five thousand two hundred and twenty-eight,) 75,229, (seventy-five thousand two hundred and twenty-nine,) 75,230, (seventy-five thousand two hundred and thirty,) 75,231, (seventy-five thousand two hundred and thirty-one,) 75,232, (seventy-five thousand two hundred and thirty-two; to have and to hold all, each, and every one of the said bonds, and all money due and to grow due thereon, unto the said Mary Ann Sparkman, her executors, administrators, and assigns, to her and their own proper use, benefit, and behoof forever.

In witness whereof I, the said James K. Place, have hereunto set my hand and seal this eighth day of June, in the year one thousand eight hundred and sixty-six.

JAMES K. PLACE. [L. S.]

Sealed and delivered in the presence of—
BARKER PLACE.

Rensselaer Ten Broeck, a witness on the part of the plaintiff, being called, sworn, and examined, deposes and says:

Pursuant to the subpœna served upon me I produce an original promissory note now in my possession, in the words and figures following, namely:

NEW YORK, 1*st December*, 1865.

Five years after date we promise to pay to the order of Mr. Ephraim B. Place thirty thousand dollars, with interest from date, payable semi-annually, at the rate of (7) seven per cent. per annum.

JAMES K. PLACE & CO.

I know the handwriting of James K. Place, and I believe the
104 signature to the said note to be in James K. Place's handwriting. I received that note from Ephraim B. Place a little more than two years ago. I have not received any payments on account of it. The note was proved in bankruptcy by Ephraim B. Place, against the estate of J. K. Place & Co., and a reference to a register was had to determine the amount due on it. The register reported that there remained unpaid on it some $2,985, after applying on it the amounts drawn by Ephraim B. Place from J. K. Place & Co., after December 1st, 1865. As I believe, James B. Silkman and Rensselaer Ten Broeck (myself) were creditors of J. K. & E. B. Place December 1st, 1865, to the amount

of the principal sum of one thousand dollars. That amount still remains unpaid.

R. TEN BROECK.

Subscribed and sworn to before me this October 10th, 1870.

R. E. STILWELL,
Examiner, &c.

Josiah Fletcher being called, sworn, and examined on the part of the plaintiff, deposes and says: I produce five (5) promissory notes, now in my possession, which I hold as the attorney and agent of Alexander S. Anderson, of Buffalo, in the State of New York; of which, and the endorsements thereon, the following are respectively copies:

$5,000. NEW YORK, *4th March*, 1864.

Twelve months after date we jointly and severally promise to pay to the order of Mr. A. S. Anderson, at our office, five thousand dollars, with interest from date, value received.

J. K. & E. B. PLACE.
JAMES D. SPARKMAN.

[$2.50 int. rev. stamp, cancelled.]

[Endorsed:]

1865. March 30th. Received on the within note three hundred and fifty dollars.

A. S. ANDERSON.

105 1866. April 18th. Received on the within note three hundred and fifty dollars.

A. S. ANDERSON.

1867. April 5th. Received on the within note three hundred and fifty dollars.

A. S. ANDERSON.

$5,000. NEW YORK, *4th March*, 1864.

Twelve months after date, we jointly and severally promise to pay to the order of Mr. A. S. Anderson, at our office, five thousand dollars, with interest from date, value received.

J. K. & E. B. PLACE.
JAMES D. SPARKMAN.

[$2.50 int. rev. stamps, canceled.]

[Endorsed:]

1865. March 30th. Received on the within note three hundred and fifty dollars.

A. S. ANDERSON.

1866. April 18th. Received on the within note three hundred and fifty dollars.

A. S. ANDERSON.

1867. April 5th. Received on the within note three hundred and fifty dollars.

A. S. ANDERSON.

$5,000. NEW YORK, *7th March*, 1864.

Twelve months after date, we jointly and severally promise to pay to the order of Mr. A. S. Anderson, at our office, five thousand dollars, with interest from date, value received.

J. K. & E. B. PLACE.
JAMES D. SPARKMAN.

[$2.50 int. rev. stamps canceled.]

[Endorsed:]

1865. March 30th. Received on the within note three hundred and fifty dollars.

A. S. ANDERSON.

1866. April 18th. Received on the within note three hundred and fifty dollars.

A. S. ANDERSON.

1867. April 5th. Received on the within note three hundred and fifty dollars.

A. S. ANDERSON.

NEW YORK, *20th February*, 1863.

On demand we promise to pay to the order of A. S. Anderson, esq., five thousand dollars, with interest from date, for value received.

J. K. & E. B. PLACE.

[$1.50 int. rev. stamp cancelled.]

106 [Endorsed:]

1864. March 12th. Received one year's interest.

A. S. ANDERSON.

1865. March 30th. Received three hundred and fifty dollars.

A. S. ANDERSON.

1866. April 18th. Received on the within note three hundred and fifty dollars.

A. S. ANDERSON.

1867. April 5th. Received on the within note three hundred and fifty dollars.

A. S. ANDERSON.

NEW YORK, *18th March*, 1863.

On demand, we promise to pay Mr. A. S. Anderson, or order, for value received, five thousand dollars, with interest from date.

$5,000. J. K. & E. B. PLACE.

[25c. int. rev. stamps canceled.]

[Endorsed:]

1864. March 12th. Received one year's interest.

A. S. ANDERSON.

1865. March 30th. Received three hundred and fifty dollars on within note.

A. S. ANDERSON.

1864. March 12th. Received one year's interest.

A. S. ANDERSON.

1865. March 30th. Received three hundred and fifty dollars on within note.

A. S. ANDERSON.

1866. April 18th. Received on the within note three hundred and fifty dollars.

A. S. ANDERSON.

1867. April 5th. Received on the within note three hundred and fifty dollars.

A. S. ANDERSON.

I know the signature of James D. Sparkman. I have seen him write, and know his handwriting, and I believe the signature, "James D. Sparkman," upon the first three of the said notes to be the handwriting of the said James D. Sparkman. I know of no payments on account of said notes, by any of the parties thereto.

JOSIAH FLETCHER.

Subscribed and sworn to before me this 15th Oct., 1870.

R. E. STILWELL,
Examiner, etc.

107 William P. Buckmaster, being called and sworn as a witness on the part of the plaintiff, testifies as follows:

I reside in the city of New York. I know James D. Sparkman and James T. Sparkman, and have been well acquainted with both of them for some years. I hold an original note which I now produce, and of which a copy is as follows:

$1,500. NEW YORK, *July 1st*, 1863.

Six months after date I promise to pay to the order of John W. Buckmaster fifteen hundred dollars, with interest.

JAMES D. SPARKMAN.

[Rev. st'ps 30c.]

(Endorsed:) Received interest on the within to January 1st, 1865. J. W. Buckmaster. Received interest on the within to July 1st, 1865. J. W. Buckmaster. Received interest on the within to January 1st, 1866. J. W. Buckmaster. Received interest on the within to July 1st, 1866, $52.50. J. W. Buckmaster. Received interest on the within to January 1st, 1867, $52.50. J. W. Buckmaster. Received interest to July 1st, 1867, $52.50. J. W. Buckmaster.

I have seen James D. Sparkman write and know his handwriting The signature to the said note is in the handwriting of the said James D. Sparkman. Up to about the month of February, 1870, and for several years previous, I knew a corporation doing business under the firm-name of Sparkman, Place & King. James T. Sparkman was the secretary of that corporation, and James D. Sparkman was the president of it. Since February, 1870, I have been acting as trustee in bankruptcy of the said corporation, under the 43d section of the bankruptcy act, under an appointment as such trustee by the district court of the United States. The books of account of said corporation, including its ledger, came into my possession as such trustee, and are now in my possession. On page 146 of the ledger of the said corporation, now produced by me and shown, there is an account with the firm of J. K. Place & Co., of which, and the whole of which account, the following is a true copy:

108 JAMES K. PLACE & CO.

1867.		D'R.	1867.		C'R.
June 1	To Charles Place..	$10,728 99	April 11	By cash.....	$10,000 00
Sep. 12	" bills payable...	38,765 20	" 22	"	10,000 00
			" 25	"	2,000 00
			" 26	"	10,000 00
			" 30	By sundries.....	741 42
			May 31	" cash.....	5,000 00
			June 28	" "	5,000 00
			Aug. 15	" "	5,000 00
			Sep 12	" interest.....	1,752 77
		$49,494 19			$49,494 19
Sep. 12	To cash.....	$7,500 00	Sep. 3	By cash.....	$6,517 59
28	" "	33,311 69	" 16	" "	2,500 00
Oct. 3	" int.....	132 27	"	" "	1,671 51
10	" cash.....	5,000 00	" 28	" "	33,000 00
23	" "	5,000 00	28	" "	23,294 89
30	" "	5,000 00	Oct. 17	" "	5,000 00
"	" "	9,200 00	28	" "	5,000 00
Nov. 2	" "	10,488 72	30	" "	5,000 00
8	" "	761 59	"	" "	10,000 00
18	" bills payable....	62,039 24	31	" "	100 00
			"	" pre'm on gold..	4,100 00
			Nov. 2	" cash.....	10,000 00
			"	" "	7,412 52
			7	" "	5,000 00
			9	" "	5,000 00
			"	" pre'm on gold..	14,837 00
		$138,433 51			$138,433 51

109 Among the proofs of debt which have come into my possession as such trustee is an original proof of debt, of which the following is a copy:

EXHIBIT 21.

Deposition for proof of debt without security, (by creditor.)

In the district court of the United States for the southern district of New York, in bankruptcy.

IN THE MATTER OF SPARKMAN, Place & King, bankrupts.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

At the city of New York, in the county of New York and State of New York, on the thirteenth day of December, A. D. 1869, before me, Henry Wilder Allen, register in bankruptcy of said district, came James T. Sparkman, of Perth Amboy, in the county of Middlesex and State of New Jersey, and made oath and says that the said Sparkman, Place & King, the corporation against whom a petition for adjudication of bankruptcy has been filed, at and before the filing of the said petition, was, and still is, justly and truly indebted to this deponent, as executor of the last will and testament of Mary Ann Sparkman, in the sum of sixty-five thousand eight hundred and forty-six dollars and twenty-four

cents, for money loaned and advanced in the city of New York by this deponent, as such executor, to said bankrupt corporation at its request, and the interest thereon from July 1st, 1869, to the 19th day of November, in the year 1869, which money was a part of and belonged to the estate of the said Mary Ann Sparkman, deceased, and was loaned and advanced, as aforesaid, at the times and in the amounts following, that is to say, on the 24th day of November, 1867, thirty thousand dollars; on the 24th day of December, 1867, thirty-four hundred and eighty-nine dollars and four cents; on the 26th day of December, 1867, ten thousand dollars; on the 17th day of February, 1868, eight hundred dollars; on the 1st day of January, 1869, eighty-seven hundred and eight dollars and seventy cents; on the 16th day of April, 1869, ten thousand eight hundred and fifty-two dollars and sixty-six cents; and on the 7th day of June, 1869, two hundred and seventy-seven dollars and eleven
110 cents; that for the five first above-mentioned sums lent and advanced as aforesaid the said bankrupt corporation made and delivered to this deponent, as executor as aforesaid, its five promissory notes, copies of which are hereto annexed, forming a part of this deposition, all of which have ever since been and are now held by this deponent, as executor as aforesaid, and that the whole balance of the monies loaned and advanced, as aforesaid, have ever since stood, and are now standing, in open account; and further, that no part of any said moneys so lent and advanced as aforesaid, or of any or either of said promissory notes, or any interest thereon since July 1, 1869, have been paid; for which said sum of sixty-five thousand eight hundred and forty-six dollars and twenty-four cents, or any part thereof, this deponent says that he has not, nor has any person by his order, or to this deponent's knowledge or belief, for his use or the use of the estate of said deceased, had or received any manner of satisfaction or security whatsoever.

And this deponent further says that the said claim was not procured for the purpose of influencing the proceedings under the act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867; that no bargain or agreement, express or implied, has been made or entered into by or on behalf of this deponent, to sell, transfer, or dispose of said claim or any part thereof, against said bankrupt, or to take or receive, directly or *or* indirectly, any money, property, or consideration whatever, whereby the vote of this deponent for assignee, or any action on the part of this deponent, or any other person in the proceedings under said act, has been, is, or shall be in any way affected, influenced, or controlled.

JA'S T. SPARKMAN.

Subscribed and sworn to this 13th day of December, A. D. 1869, before me.

HENRY WILDER ALLEN,
Register in Bankruptcy in and for the Southern District of New York.

111 $30,000. NEW YORK, *Nov.* 24, 1867.

On demand, after date, we promise to pay to the order of James T. Sparkman, executor, with interest from date, at the Manufacturers' National Bank, thirty thousand dollars, value received.

SPARKMAN, PLACE & KING.
JAS. T. SPARKMAN, *Pres.*

No. 49, due.

[U. S. rev.-stamp canceled, $15.]

(On the margin:) Sparkman, Place & Co.

$3,489.04. NEW YORK, *Dec.* 24, 1867.

On demand after date, we promise to pay to the order of James T. Sparkman, executor, at the American Exchange National Bank, thirty-four hundred and eighty-nine 4-100 dollars, value received.

SPARKMAN, PLACE & KING.
JA'S T. SPARKMAN, *Sec'y.*

No. due.

[U. S. rev. stamp, canceled, $1.75.]

(On the margin:) Sparkman, Place & Co.

$10,000. NEW YORK, *Dec.* 26, 1867.

On demand after date, we promise to pay to the order of ourselves, with interest at 7 p'r c't, at the Manufacturers' National Bank, ten thousand dollars, value received.

SPARKMAN, PLACE & KING.
JA'S T. SPARKMAN, *Sec'y.*

No. 53, due.

[U. S. rev. stamp, canceled, $5.]

(On the margin:) Sparkman, Place & Co.

(Endorsement:) Sparkman, Place & King. Jas. T. Sparkman, sec'y.

$800. NEW YORK, *Feb.* 17, 1868.

On demand after date, we promise to pay to the order of Ja's T. Sparkman, executor, at the Manufacturers' National Bank, eight hundred dollars, with interest at seven per cent. per annum, value received.

SPARKMAN, PLACE & KING.
JA'S T. SPARKMAN.

No. due.

[U. S. int. rev. stamp, 40 c'ts, canceled.]

(On the margin:) Sparkman, Place & Co.

112 $8,708.70. NEW YORK, *Jan.* 1, 1869.

On demand, we promise to pay to the order of Ja's T. Sparkman, executor, at *the* 209 Pearl street, eight thousand seven hundred and eight 70-100 dollars, with interest, value received.

SPARKMAN, PLACE & KING.
J. D. SPARKMAN, *Pres't.*

No. due.

[U. S. rev. stamp, canceled, $4.40.]

(On the margin:) Sparkman, Place & Co.

I have seen James T. Sparkman write, and know his handwriting, and I verily believe that the signature annexed to the said deposition is in the true handwriting of the said James T. Sparkman. I have examined the paper produced and shown to me entitled "U. S. circuit court, for the southern district of New York, second circuit. The separate answer of James T. Sparkman individually, and as executor of the last will and testament of Mary Ann Sparkman, deceased, defendant, to a bill of complaint exhibited against him and James K. Place and James D. Sparkman, Lewis W. Burritt, jr, and Thomas T. Sheffield, defendants, by John Sedgwick, as assignee in bankruptcy of James K. Place and James D. Sparkman, complainant."

(Endorsed:) "Filed June 7th, 1869," consisting of 68 folios, signed at the end thereof "John. N. Platt, def't's sol'r; T. C. T. Buckley, of counsel,

James T. Sparkman," and containing at the end thereof an affidavit in the following words:

U. S. OF AMERICA,
Southern District of New York, ss:

James T. Sparkman, being duly sworn, doth depose and say that he is one of the defendants in the above answer named; that he has read the foregoing answer subscribed by him, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true; and further, that the matters and things contained and set forth in said answer, so far as they relate
113 to his own acts and deeds, are true; and so far as they relate to the acts and deeds of other persons, he believes them to be strictly true.

JAMES T. SPARKMAN.

Sworn this 21st day of April, 1869, before me.

JAMES J. CAMPBELL,
Notary Public, New York County.

The words "James T. Sparkman" are in the handwriting of James T. Sparkman. Plaintiff's counsel reads in evidence from said answer:

Prior to the 30th day of November, in the year 1865, the said copartnership firm of J. K. & E. B. Place, which was composed of the defendants, James K. Place and James D. Sparkman, and one Ephraim B. Place, the said James D. Sparkman being a special partner only, were the owners and actually possessed of securities of the United States, commonly known as seven-thirty bonds or notes to the amount of one hundred and sixty thousand dollars, at their par or nominal value, which said securities constituted a portion of the surplus assets of said firm over and above a sum sufficient to discharge their debts; that on or about the said thirtieth day of November, in the year 1865, said firm of J. K. & E. B. Place was dissolved, and the said one hundred and sixty thousand dollars of said seven-thirty bonds or notes were actually divided between the members of the said firm of J. K. & E. B. Place in accordance with their respective interests in the said firm, and upon such division there was actually given and delivered to the defendant, James D. Sparkman, forty of said notes or bonds, each for the sum of one thousand dollars, and amounting in the aggregate to the sum of forty thousand dollars at their nominal or par value; which said notes or bonds were given to and received by the said defendant, James D. Sparkman, as his sole and absolute property, and were put and placed in his sole and exclusive possession; and that said forty thousand dollars of seven-thirty notes or bonds were never in any manner, nor any or either of them, or any part thereof, contributed or delivered to or put in the possession of the said firm of James K. Place & Co. except only the same were by him deposited for safe-keeping in an envelope in the iron safe of the said firm of J. K. Place & Co. to be securely
114 kept for him; that at the time of the division of such bonds the said James D. Sparkman was possessed of ample means, and was worth, over and above all his debts and liabilities, and the amount of the sum contributed by him as capital to said firm of J. K. Place & Co., at least the sum of $200,000; that said debts and liabilities did not exceed the sum of $10,000, besides his bonds amply secured by mortgage on real estate; that being about to embark as a general partner

in the said firm of James K. Place & Company, and being well advanced in years, he was desirous of making in favor of his wife, Mary A. Sparkman, since deceased, a settlement of a portion of his property; and on or about the first of December, 1865, having paid in his proportion of the capital to be contributed by him to the firm of James K. Place & Co., he directed his counsel to take the proper steps to secure to his said wife from his then existing property the sum of $100,000 or thereabouts; that the specific items of his property, intended by him at that time to be so disposed of, were the $40,000 of Government securities referred to in the bill of complaint herein, and certain leasehold premises in Forty-second and Forty-third streets, between the Fifth and Sixth avenues, in the city of New York, on which he had erected a dwelling-house and stable, which constituted the family residence, and were worth between forty and $50,000, and also the furniture, horses, and carriages then in use by him therein; that as respects all the property except the forty thousand dollars of Government securities, proper instruments for the vesting of the title thereto in his said wife through the usual channel of a third person were executed and delivered on or about the first day of December, in the year 1865.

Witness further testifies:

I recognize the two signatures each in the words "James D. Sparkman" to the paper now produced and shown to me, entitled "U. S. circuit court for the southern district of New York, second circuit. The separate answer of James D. Sparkman, defendant, to the bill of complaint exhibited against him and James K. Place, James T. Sparkman, Lewis W. Burritt, j'r, and Thomas T. Sheffield, defendants, by John Sedgwick as assignee in bankruptcy of James K. Place, and James D. Sparkman, complainant." (endorsed with the words) "Filed
115 June 7th, 1869," containing 68 folios; signed at the end thereof "James D. Sparkman, J. N. Platt, sol. for defendants, Thomas T. C. Buckley of counsel;" and containing at the end thereof the following words:

UNITED STATES OF AMERICA,
Southern District of New York, ss:

James D. Sparkman, being duly sworn, doth depose and say that he is one of the defendants in the above answer named; that he has read the foregoing answer subscribed by him and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true; and further, that the matters and things contained and set forth in said answer, so far as they relate to his own acts and deeds, are true; and so far as they relate to the acts and deeds of other persons, he believes them to be strictly true.

JAMES D. SPARKMAN.

Sworn to this 7th day of June, 1869, before me.

EDWARD L. OWEN,
U. S. Com.

Witness testifies:

I verily believe the two signatures, each in the writing, "James D. Sparkman," annexed to said paper, are in the handwriting of said James D. Sparkman.

Plaintiff's counsel reads from said answer, as follows:

Prior to the 30th day of November, in the year 1865, the said copart-

nership firm of J. K. & E. B. Place, which was composed of the defendants, James K. Place and James D. Sparkman, and one Ephraim B. Place, the said James D. Sparkman being a special partner only, were the owners, and actually possessed, of securities of the United States, commonly known as seven-thirty bonds or notes, to the amount of one hundred thousand dollars, at their par or nominal value, which said securities constituted a portion of the surplus assets of said firm over and above a sum sufficient to discharge their debts; that on or about the said 30th day of November, in the year 1865, said firm of J.
116 K. & E. B. Place was dissolved, and the said one hundred and sixty thousand dollars of said seven-thirty bonds or notes were actually divided between the members of said firm of J. K. & E. B. Place, in accordance with their respective interests in said firm, and upon such division there was actually given and delivered to this defendant, James D. Sparkman, forty of said notes or bonds, each for the sum of one thousand dollars, and amounting in the aggregate to the sum of forty thousand dollars at their nominal or par value; which said notes or bonds were given to and received by this defendant, James D. Sparkman, as his sole and absolute property, and were put and placed in his sole and exclusive possession; and that said forty thousand dollars of seven-thirty notes or bonds were never in any manner, nor any or either of them, or any part thereof, contributed or delivered to or put in the possession of the said firm of James K. Place & Co., except only the same were by him deposited for safe keeping in an envelope in the iron safe of the said firm of James K. Place and Company, to be securely kept for him.

That at the time of the division of such bonds this defendant, James D. Sparkman, was possessed of ample means, and was worth, over and above all his debts and liabilities, and the amount of the sum contributed by him as capital to said firm of James K. Place & Company, at least the sum of two hundred thousand dollars; that said debts and liabilities did not exceed the sum of ten thousand dollars, ($10,000,) besides his bonds, amply secured by mortgage on real estate; that being about to embark as a general partner in the said firm of James K Place & Company, and being well advanced in years, he was desirous of making in favor of his wife, Mary A. Sparkman, since deceased, a settlement of a portion of his property; and on or about the first of December, 1865, having paid in his proportion of the capital to be contributed by him to the firm of James K. Place & Company, he directed his counsel to take the proper steps to secure to his said wife, from his then existing property, the sum of one hundred thousand dollars ($100,000) or thereabouts; that the specific items of his property, intended by him at that time to be so disposed of, were the forty thousand dollars ($40,000) of Government securities referred to in the bill of complaint herein, and certain leasehold premises in Forty-second and Forty-third streets, between the Fifth and Sixth avenues, in the city of New
117 York, on which he had erected a dwelling-house and stable, which constituted the family residence, and were worth between forty and fifty thousand dollars; and also the furniture, horses, and carriages then in use by him therein.

That as respects all the property, except the forty thousand dollars of Government securities, proper instruments for the vesting of the title thereto in his said wife, through the usual channel of a third person, were executed and delivered on or about the first (1st) day of December, in the year eighteen hundred and sixty-five (1865.)

Witness further testifies:

I recognize the signature of James D. Sparkman to the paper now produced and shown to me, entitled "U. S. district court for the southern district of New York. The joint and several answer of James K. Place and James D. Sparkman, defendants, to the amended bill of complaint exhibited against them and others, by John Sedgwick, as assignee in bankruptcy of the said James K. Place and James D. Sparkman." Endorsed with the words, "Filed September 20th, 1869." Signed, "J. K. Hayward, sol'r for Place & Sparkman; E. L. Fancher, counsel for Place & Sparkman, J. K. Place, James D. Sparkman;" and containing, at the end thereof, the following words:

UNITED STATES OF AMERICA,
Southern District of New York, ss:

James K. Place and James D. Sparkman, being severally duly sworn, doth, each for himself, depose and say that he is one of the defendants in the above answer named; that he has read the foregoing answer subscribed by him, and knows the contents thereof; and that the same is true, of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true. And further, that the matters and things contained and set forth in said answer, so far as they relate to his own acts and deeds, are
118 true; and, so far as they relate to the acts and deeds of other persons, he believes them to be strictly true.

JAMES K. PLACE.
JAMES D. SPARKMAN.

Sworn to before me this 5th day of August, 1869,
JOHN A. OSBORN,
U. S. Commissioner for the Southern District of N. Y.

I believe the two signatures "J. D. Sparkman" annexed to the said paper to be in the genuine handwriting of the said James D. Sparkman.

Plaintiff's counsel reads in evidence from said answer as follows:

That being about to embark as a general partner in the said firm of James K. Place & Company, and being well advanced in years, he was desirous of making, in favor of his wife Mary A. Sparkman, since deceased, a settlement of a portion of his property; and on or about the first day of December, 1865, having paid in his proportion of the capital to be contributed by him to the firm of James K. Place & Company, he directed his counsel to take the proper steps to secure to his said wife, from his then existing remaining property, the sum of one hundred thousand dollars, ($100,000,) or thereabouts; that the specific items of his property, intended by him at that time to be so disposed of, were the forty thousand dollars ($40,000) of Government securities referred to in the amended bill of complaint herein, and certain leasehold premises in Forty-second and Forty-third streets, between the Fifth and Sixth avenues, in the city of New York, on which he had erected a dwelling-house and stable, which constituted the family residence, and were worth between forty and fifty thousand dollars; and also the furniture, horses, and carriages, then in use by him therein.

That, as respects all the property, except the forty thousand dollars of Government securities, proper instruments for the vesting the title thereto in his said wife, through the usual channel of a third person,

were executed and delivered on or about the 1st day of December, in the year 1865.

119 Witness further testifies:

I recognize the two signatures, each in the words "James T. Sparkman," to the paper now produced and shown me, entitled "U. S. district court for the southern district of New York. The separate answer of James T. Sparkman individually, and as executor of the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, to the amended bill of complaint exhibited against him and others by John Sedgwick, as assignee in bankruptcy of James K. Place and James D. Sparkman," containing at the end the signatures "Ja's T. Sparkman, J. N. Platt, sol'r for def't, T. C. T. Buckley, of counsel," and containing at the end the following words:

UNITED STATES OF AMERICA,
Southern District of New York, ss:

James T. Sparkman, being duly sworn, deposes and says that he is one of the defendants in the above answer named; that he has read the foregoing answer subscribed by him, and knows the contents thereof; and that the same is true, of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true. And further, that the matters and things contained and set forth in said answer, so far as they relate to his own acts and deeds, are true, and so far as they relate to the acts and deeds of other persons, he believes them to be strictly true.

JAMES T. SPARKMAN.

Sworn to this 5th day of August, 1869, before me.

EDWARD L. OWEN,
U. S. Comm'r.

The said paper is endorsed, "Filed September 20th, 1869." I believe the said two signatures, "James T. Sparkman," to be in the handwriting of the said James T. Sparkman.

Plaintiff's counsel reads in evidence from said answer the following words, viz:

That being about to embark as a general partner in the said
120 firm of James K. Place & Company, and being well advanced in years, he was desirous of making, in favor of his wife, Mary A. Sparkman, since deceased, a settlement of a portion of his property; and on or about *about* the first of December, 1865, having paid in his proportion of the capital to be contributed by him to the firm of James K. Place & Company, he directed his counsel to take the proper steps to secure to his said wife from his then existing property the sum of one hundred thousand dollars ($100,000) or thereabouts; that the specific items of his property, intended by him at that time to be so disposed of, were the forty thousand dollars ($40,000) of Government securities referred to in the said amended bill of complaint, and therein described by their respective numbers, and certain leasehold premises in Forty-second and Forty-third streets, between the Fifth and Sixth avenues, in the city of New York, on which he had erected a dwelling-house and stable, which constituted the family residence, and were worth between forty and fifty thousand dollars; and also the furniture, horses, and carriages then in use by him therein.

That as respects all the property, except the forty thousand dollars of

Government securities, proper instruments, for the vesting of the title thereto in his said wife, through the usual channel of a third person, were executed and delivered on or about the first day of December, in the year 1865.

Witness further testifies:

I recognize the signature of James T. Sparkman to the paper now produced and shown to me, entitled "U. S. district court, John Sedgwick, as assignee, &c., against James K. Place et al. Testimony taken for final hearing on the part of the plaintiff pursuant to rule 67 of the Supreme Court of the United States, in equity as amended."

The signature of James T. Sparkman to the said paper is in the handwriting of the said James T. Sparkman. A copy is hereto annexed.

No further questions being asked of the witness, his deposition is here closed.

W'M P. BUCKMASTER.

Subscribed and sworn to before me this 21st day of July, 1870.

R. E. STILWELL,
Special Examiner.

121 *Copy depositions annexed to Buckmaster's deposition.*

JAMES T. SPARKMAN, being called and sworn as a witness on the part of the plaintiff, testifies as *as* follows:

Q. 1. How are you related to James D. Sparkman?

A. His son.

Q. 2. Was your mother living in October and November, 1867?

A. No, sir.

Q. 3. Was M'r's Mary A. Sparkman your mother?

A. No, sir.

Q. 4. When did she die?

A. In October, 1866.

Q. 5. Of what disease?

A. A complication of diseases; I could hardly describe them.

Q. 6. How long had she been ill?

A. She had been seriously ill about six or eight months.

Q. 7. How long prior to her death had hopes of her recovery been abandoned?

A. I don't know.

Q. 8. Who attended her?

A. D'r Parker, D'r Sabine, D'r Watts, s'r, and D'r Peasley.

Q. 9. Were you connected with the corporation called Sparkman, Place & King; and, if so, in what capacity and for what period?

A. I was secretary of the corporation from its organization.

Q. 10. Were you secretary in October and November, 1867?

A. Yes, sir.

Q. 11. Where is its place of business?

A. 209 Pearl street.

Q. 12. Do you recognize the two books now shown you?

A. Yes, sir.

Q. 13. What are they?

A. The book containing the certificates of stock and the transfer-book.

Q. 14. Look at the book containing the certificates of stock, numbered from 1 to 17 inclusive, and say whether or not the signatures upon the

certificates are genuine signatures, and whether or not those certificates were actually issued and delivered?

A. They are genuine signatures, and those certificates were delivered.

Q. 15. Are they the signatures of the persons they purport to be?

A. Yes, sir.

Q. 16. In whose handwriting is the mark "Cancelled June 4th, 1867—James D. Sparkman.—James D. Sparkman, pres.," on certificate No. 1?

A. The signatures are in the handwriting of M'r James D. Sparkman.

Q. 17. And the rest of it?

A. I could not say whose handwriting.

Q. Isn't it M'r Wallis's?

A. My impression is that it is.

122 Q. 19. In whose handwriting are the entries on the margin of this certificate No. 1—the stub remaining in the book?

A. The same as on the certificate.

Q. 20. Whose is that; M'r Wallis's?

A. I could not say positively.

Q. 21. Have you an opinion?

A. It is my impression; I did not see it written.

Q. 22. Is that your opinion and belief?

A. Yes, sir.

The certificate referred to is hereto annexed:

No. . 1,200 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that James D. Sparkman is entitled to twelve hundred shares of full-paid capital stock of Sparkman, Place & King, transferable only on the books of the company in person or by attorney, on surrender of this certificate.

New York, June 1st, 1867.

JAMES D. SPARKMAN, *Pres't.*
JA'S T. SPA'KMAN, *Sec'y.*

[Revenue stamp, 25 cents.]

Canceled June 4th, 1867—Ja's D. Sparkman, James D. Sparkman, pres't.

No. 1. Issued to Ja's D. Sparkman, of the city of New York, for 1,200 shares; date, June 1st, 1867. Received the above certificate.

JAMES D. SPARKMAN.

Q. 23. On the margin of No. 2, whose signature is it?

A. James K. Place.

The certificate referred to is hereto annexed:

No. 2. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that James K. Place is entitled to fifty (50) shares of full-paid capital stock of Sparkman, Place & King, transferable only on

the books of the company in person or by attorney, on surrender of this certificate.

New York, June 4th, 1867.

JAMES D. SPARKMAN, *Pres't.*
JA'S T. SPARKMAN, *Sec'y.*

[Revenue-stamp, 25 cents.]

Cancelled July 1, 1867.—Ja's K. Place. J. D. Sparkman, pres't.

No. 2. Issued to James K. Place, of the city of New York, for fifty shares; date, June 4th, 1867. Received the above certificate.

JA'S K. PLACE.

123 (Endorsed:)

For value received, I hereby sell, transfer, and assign to Ja's T. Sparkman the shares of stock within mentioned, and authorize him to make the necessary transfer on the books of the company.

Witness my hand and seal this 1st day of July, 1867.

JA'S K. PLACE.

Witnessed by—
JOHN BALLARD.

Q. 24. On the margin of No. 3, whose signature is it?
A. The same.

Certificate referred to is hereto annexed.

No. 3. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that James K. Place is entitled to fifty (50) shares of full-paid capital stock of Sparkman, Place & King, transferable only on the books of the company, in person or by attorney, on surrender of this certificate.

New York, June 4th, 1867.

JAMES D. SPARKMAN, *Pres't.*
JA'S T. SPARKMAN, *Sec'y.*

[Revenue-stamp, 25 c'ts.]

Cancelled July 1st. Ja's K. Place. J. D. Sparkman, pres't.

No. 3. Issued to James K. Place, of city of New York, for fifty shares; date, June 4th, 1867. Received the above certificate.

JA'S K. PLACE.

(Endorsed:)

For value received I hereby sell, transfer, and assign to Ja's T. Sparkman the shares of stock within mentioned, and authorize him to make the necessary transfer on the books of the company.

Witness my hand and seal this 1st day of July, 1867.

JA'S K. PLACE.

Witnessed by—
J. BALLARD.

Q. 26. On the margin of No. 4, whose signature is it?
A. The same.

Certificate referred to is hereto annexed.

No. 4. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that James K. Place is entitled to fifty (50) shares of full-paid capital stock of Sparkman, Place & King, transferable
124 only on the books of the company, in person or by attorney, on surrender of this certificate.

New York, June 4th, 1867.

JA'S T. SPARKMAN, *Sec'y.*
JA'S D. SPARKMAN, *Pres't.*

[Revenue-stamp, 25c.]

Canceled July 1st, '67. Ja's K. Place. J. D. Sparkman.

No. 4. Issued to James K. Place, of city of New York, for fifty shares; dated June 4th, 1867. Received the above certificate.

JA'S K. PLACE.

(Endorsed:)

For value received, I hereby sell, transfer, and assign to Ja's T. Sparkman the shares of stock within mentioned, and authorize him to make the necessary transfer on the books of the company.

Witness my hand and seal this 1st day of July, 1867.

JA'S K. PLACE.

Witnessed by—
JOHN BALLARD.

Q. 27. On the margin of No. 5?
A. The same.
(Certificate No. 5 hereto annexed.)

No. 5. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that James K. Place is entitled to fifty (50) shares of full-paid capital stock of Sparkman, Place & King, transferable only on the books of the company, in person or by attorney, on surrender of this certificate.

New York, June 4th, 1867.

JA'S T. SPARKMAN, *Sec'y.*
JAMES D. SPARKMAN, *Pres't.*

[Revenue-stamp, 25c.]

Canceled July 1st, '67. Ja's K. Place. Ja's D. Sparkman, pres.

No. 5. Issued to James K. Place, of city of New York, for fifty shares; date, June 4th, 1867. Received the above certificate.

JA'S K. PLACE.

(Endorsed:)

For value received, I hereby sell, transfer, and assign to Ja's T.

Sparkman the shares of stock within mentioned, and authorize him to make the necessary transfers on the books of the company.

Witness my hand and seal this 1st day of July, 1867.

JA'S K. PLACE.

Witnessed by—
JOHN BALLARD.

125 Q. 28. On the margin of No. 6?
A. That is mine.

Margin of certificate No. 6 is hereto annexed.

No. 6. Issued to James T. Sparkman, of city of New York, for fifty shares; date, June 4th, 1867. Received the above certificate.

JA'S T. SPARKMAN.

Q. 29. Where is the stock No. 6?
A. M'r Bangs has it.
Q. On the margin No. 7?
A. That is mine.

Margin of No. 7 hereto annexed.

No. 7. Issued to James T. Sparkman, of city of New York, for fifty shares; date, June 4th, 1867. Received the above certificate.

JA'S T. SPARKMAN.

Q. 31. Where is the stock?
A. The same place as the certificate No. 6.
Q. 32. Whose signatures are on stubs Nos. 8 and 9?
A. Mine.

Stubs Nos. 8 and 9 hereto annexed.

No. 8. Issued to James T. Sparkman, of city of New York, for fifty shares; date, June 4th, 1867. Received the above certificate.

JA'S T. SPARKMAN.

No. 9. Issued to James T. Sparkman, of city of New York, for fifty shares; date, June 4th, 1867. Received the above certificate.

JA'S T. SPARKMAN.

Q. 33. Where is the stock?
A. The certificates are all in the same place, as near as I know.
Q. 34. Whose handwriting is on the stub of No. 10?
A. James K. Place.

Stub and certificate hereto annexed.

126 No. 10. 50 shares

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that Charles Place is entitled to fifty (50) shares of full-paid capital stock of Sparkman, Place & King, transferable only on the

books of the company, in person or by attorney, on surrender of this certificate.

New York, June 4th, 1857.

JA'S D. SPARKMAN, *Pres't.*
JA'S T. SPARKMAN, *Sec.*

[Revenue-stamp, 25c.]

No. 10. Issued to Charles Place, of New York, for fifty shares; date, June 4th, 1867. Received the above certificate.

CHA'S PLACE,
Per J. K. PLACE.

(Endorsed:)

For value received, I hereby sell, transfer, and assign to Ephraim B. Place the whole fifty of the shares of stock within mentioned, and authorize James T. Sparkman to make the necessary transfer on the books of this company.

Witness my hand and seal this 19th day of November, 1867.

CHARLES PLACE. [L. S.]

Witnessed by—
L. W. BURRITT, J'R.
[Revenue-stamp, 25c.]

Q. 35. Whose handwriting is No. 11?
A. The same.
(No. 11 is hereto annexed.)

No. 11. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that Charles Place is entitled to fifty (50) shares of full-paid capital stock of Sparkman, Place & King, transferable only on the books of the company, in person or by attorney, on surrender of this certificate.

New York, June 4th, 1867.

JA'S D. SPARKMAN, *Pres't.*
JA'S T. SPARKMAN, *Sec.*

[Revenue-stamp, 25c.]

No. 11. Issued to Charles Place, of New York, for fifty shares; date, June 4th, 1867. Received the above certificate.

CHARLES PLACE,
Per J. K. PLACE.

127 (Endorsed.)

For value received, I hereby sell, transfer, and assign to Ephraim B. Place the whole fifty of the shares of stock within mentioned, and authorize James T. Sparkman to make the necessary transfer on the books of this company.

Witness my hand and seal this 19th day of November, 1867.

CHARLES PLACE. [L. S.]

Witnessed by—
L. W. BURRITT, J'R.
[Revenue-stamp, 25c.]

Q. 36. On No. 12?
A. The same.

No. 12 is hereto annexed.

No. 12. Issued to Charles Place, of New York, for fifty shares; dated June 4th, 1867. Received the above certificate.

CHA'S PLACE,
p. J. K. PLACE.

No. 12. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that Charles Place is entitled to fifty (50) shares of full-paid stock of Sparkman, Place & King, transferable only on the books of the company, in person or by attorney, on surrender of this certificate.

New York, June 4th, 1867.

JA'S T. SPARKMAN, *Sec'y.*
JAMES D. SPARKMAN, *Pres't.*

[Int. revenue stampe, 25c.]

(Written across the face:) Canceled April 3d, '68. J. D. Sparkman, pres't; Ja's T. Sparkman, sec'y.

(Endorsed:)

For value received, I hereby sell, transfer, and assign to Ephraim B. Place the whole fifty of the shares of stock within mentioned, and authorize James T. Sparkman to make the necessary transfer on the books of this company.

Witness my hand and seal this 19th day of November, 1867.

CHARLES PLACE. [L. S.]

Witnessed by—
L. W. BURRITT, J'R.

Q. 37. On No. 13?
A. The same.

No. 13 is hereto annexed.

No. 13. Issued to Charles Place, of New York, for fifty shares; dated June 4th, 1867. Received the above certificate.

CHA'S PLACE,
p. J. K. PLACE.

No. 13. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, 120,000. Shares, $100 each.

This certifies that Charles Place is entitled to fifty (50) shares
128 of full-paid capital stock of Sparkman, Place & King, transferable only on the books of the company, in person or by attorney, on surrender of this certificate.

New York, June 4th, 1867.

JAMES T. SPARKMAN, *Sec'y.*
JAMES D. SPARKMAN, *Pres't.*

[Int. rev. stamp, 25 cts.]

(Written across the face:) Canceled April 3d, '68. J. D. Sparkman, pres't; Ja's T. Sparkman, sec'y.

(Endorsed:)
For value received, I hereby sell, transfer, and assign to Ephraim B. Place the whole fifty of the shares of stock within mentioned, and authorize James T. Sparkman to make the necessary transfer on the books of this company.
Witness my hand and seal this 19th day of November, 1867.
CHARLES PLACE. [SEAL.]
Witnessed by—
L. W. BURRITT, J'R.

Q. 38. On No. 14?
A. The same.

No. 14 is hereto annexed.

No. 14. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares $100 each.

This certifies that James D. Sparkman is entitled to fifty (50) shares of full-paid capital stock of Sparkman, Place and King, transferable only on the books of the company, in person or by attorney, on surrender of this certificate.
New York, June 4th, 1867.
JAMES D. SPARKMAN, *Pres't.*
JAMES T. SPARKMAN, *Sec'y.*

[Revenue-stamp, 25c.]

Canceled Nov. 1st, '67. J. D. Sparkman. J. D. Sparkman, pres't.

No. 15. Issued to James D. Sparkman, of New York, for fifty shares; date, June 4th, 1867. Received the above certificate.
JA'S D. SPARKMAN,
P'r J. K. PLACE.

Q. 39. On No. 15?
A. The same.

No. 15 is hereto annexed.

No. 15. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that James D. Sparkman is entitled to fifty (50) shares of full paid capital stock of Sparkman, Place & King, transferable
129 only on the books of the company, in person or by attorney, on surrender of this certificate.
New York, June 4th, 1867.
JAMES D. SPARKMAN, *Pres't.*
JAMES T. SPARKMAN, *Sec'y.*

[Revenue-stamp, 25c.]

Canceled Nov. 1st, '67. J. D. Sparkman. J. D. Sparkman, pres't.

No. 15. Issued to Ja's D. Sparkman, of New York, for fifty shares; date, June 4th, 1867. Received the above certificate.

JAMES D. SPARKMAN,
P'r JA'S K. PLACE.

Q. 40. On No. 16?
A. The same.

No. 16 is hereto annexed.

No. 16. Issued to Ja's D. Sparkman, of New York, for fifty shares; date, June 4th, 1867. Received the above certificate.

JAMES D. SPARKMAN,
p. J. K. PLACE.

No. 16. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that James D. Sparkman is entitled to fifty (50) shares of full-paid capital stock of Sparkman, Place & King, transferable only on the books of the company, in person or by attorney, on surrender of this certificate.

New York, June 4th, 1867.

JA'S D. SPARKMAN, *Pres't.*
JA'S T. SPARKMAN, *Sec'y.*

[Int. rev. stamp, 25 c'ts.]

(Written across the face:) Canceled Nov. 1st, '67. J. D. Sparkman. J. D. Sparkman, pres't.

Q. 41. On No. 17?
A. The same.

No. 17 is hereto annexed.

No. 17. Issued to Ja's D. Sparkman, of New York, for fifty shares; date, June 4th, 1867. Received the above certificate.

JA'S D. SPARKMAN,
p. J. K. PLACE.

No. 17. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that James D. Sparkman is entitled to fifty (50)
130 shares of full-paid capital stock of Sparkman, Place & King, transferable only on the books of the company, in person or by attorney, on surrender of this certificate.

New York, June 4th, 1867.

JA'S D. SPARKMAN, *Pres't.*
JA'S T. SPARKMAN, *Sec'y.*

[Internal rev. stamp, 25 c'ts.]

(Written across the face:) Canceled Nov. 1st, '67. J. T. Sparkman. J. D. Sparkman, pres.

Q. 42. Are the signatures to certificates Nos. 26 to 30, inclusive, the genuine signature of the officers of the corporation?

A. Yes, sir.

Q. 43. Were those certificates issued and delivered about the times they bear date?

A. I don't know.

Q. 44. Were these certificates actually issued and delivered at some time or other?

A. Yes, sir; the transfer-book will show.

Q. 45. No matter about that; just answer that question. Were they actually issued and delivered some time or other?

A. Yes, sir; they were.

Q. 46. Whose is the signature on the stubs Nos. 26, 27, 28, 29, and 30?

A. They are mine.

(Stubbs and certificates referred to are hereto annexed and marked respectively Nos. 26, 27, 28, 29, and 30.)

The following is No. 26:

No. 26. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that James T. Sparkman is entitled to fifty shares of full-paid capital stock of Sparkman, Place & King, transferable only on the books of the company, in person or by attorney, on surrender of this certificate.

New York, July 1st, 1867.

JAMES D. SPARKMAN, *Pres't.*
JAMES T. SPARKMAN, *Sec'y.*

[Revenue-stamp, 25c.]

Canceled Nov. 1st, '67. Ja's T. Sparkman. J. D. Sparkman, pres't.

No. 26. Issued to James T. Sparkman, of the city of New York, for fifty shares; date, July 1st, 1867.

JA'S T. SPARKMAN.

The following is No. 27:

131 No. 27. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that James T. Sparkman is entitled to fifty shares of full-paid capital stock of Sparkman, Place & King, transferable only on the books of the company, in person or by attorney, on surrender of this certificate.

New York, July 1st, 1867.

JAMES D. SPARKMAN, *Pres't.*
JA'S T. SPARKMAN, *Sec'y.*

[Revenue-stamp, 25c.]

Canceled Nov. 1st. Ja's T. Sparkman. J. D. Sparkman, pres't.

27. Issued to James T. Sparkman, of the city of New York, for fifty shares; date, July 1st, 1867. Received the above certificate.

JA'S T. SPARKMAN.

The following is No. 28:

No. 28. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that James T. Sparkman is entitled to fifty shares of full-paid capital stock of Sparkman, Place & King, transferable only on the books of the company, in person or by attorney, on surrender of this certificate.

New York, July 1st, 1867.

JAMES D. SPARKMAN, *Pres't.*
JA'S T. SPARKMAN, *Sec'y.*

[Revenue-stamp, 25c.]

Canceled Nov. 1st.—Ja's T. Sparkman. J. D. Sparkman, pres't.

No. 28. Issued to James T. Sparkman, of the city of New York, for fifty shares; date, July 1st, 1867. Received the above certificate.

JA'S T. SPARKMAN.

The following is No. 29:

No. 29. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that James T. Sparkman is entitled to fifty shares of full paid-capital stock of Sparkman, Place & King, transferable only on the books of the company, in person or by attorney, on surrender of this certificate.

New York, July 1st, 1867.

JAMES D. SPARKMAN, *Pres't.*
JA'S T. SPARKMAN, *Sec'y.*

[Revenue-stamp, 25c.]

Canceled Nov. 1st.—Ja's T. Sparkman. Ja's D. Sparkman, pres't.

132 No. 29. Issued to James T. Sparkman, of the city of New York, for fifty shares; date, July 1st, 1867. Received the above certificate.

JA'S T. SPARKMAN.

The following is No. 30:

No. 30. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that James T. Sparkman is entitled to fifty shares of full-paid capital stock of Sparkman, Place & King, transferable only on

the books of the company, in person or by attorney, on surrender of this certificate.

New York, November 1st, 1867.

JAMES D. SPARKMAN, *Pres't.*
JA'S T. SPARKMAN, *Sec'y.*

[Revenue stamp, 25c.]

Canceled Nov. 1st, 1867. J. T. Sparkman. J. D. Sparkman, pres't.

No. 30. Issued to James T. Sparkman, of the city of New York, for fifty shares; date, Nov. 1st, 1867. Received the above certificate.

JA'S T. SPARKMAN.

Q. 47. Is the date Nov. 1st, 1867, in those certificates of stock a true date or false one?

A. I can't tell; I didn't fill that up.

Q. 48. Did you receive or receipt for those certificates on the first of Nov., 1867?

A. I think not.

Q. 49. Was it before or after that date you received and receipted for them?

A. It was after that date.

Q. 50. Look at the stubs Nos. 31, 32, and 33, and say whose are those signatures.

A. They are all mine.

Stubs 31, 32, and 33 are hereto annexed.

No. 31. Issued to James T. Sparkman, of the city of New York, for fifty shares; date, Nov. 1st, 1867. Received the above certificate.

JA'S T. SPARKMAN.

No. 32. Issued to James T. Sparkman, of the city of New York, for fifty shares; date, Nov. 1st, 1867. Received the above certificate.

JA'S T. SPARKMAN.

133 No. 33. Issued to James T. Sparkman, of the city of New York, for fifty shares; date, Nov. 1st, 1867. Received the above certificate.

JA'S T. SPARKMAN.

Q. 51. Did you receive that stock there receipted for?

A. Yes, sir.

Q. 52. Where is it; transferred to M'r Sedgwick, is it?

A. Yes, sir; I think it is.

Q. 53. Whose is the signature to stub No. 35?

A. M'r Place's.

Stub No. 35 hereto annexed.

No. 35. Issued to James K. Place, of the city of New York, for five shares; date, Nov. 1st, 1867. Received the above certificate.

JA'S K. PLACE.

Q. 54. Whose on No. 36?

A. M'r Place's.

Stub No. 36 hereto annexed.

No. 36. Issued to Susan A. Place, of the city of New York, for one hundred and ninety-five shares; date, Nov. 1st, 1867. Received the above certificate.

SUSAN A. PLACE,
P'r J. K. PLACE.

Q. 55. James K. Place?
A. Yes, sir.
Q. 56. Whose is the signature to stub No. 40?
A. I don't know.

Stub and certificate No. 40 is hereto annexed.

No. 40. 50 shares.

Incorporated under the laws of the State of New York.

SPARKMAN, PLACE & KING.

Capital, $120,000. Shares, $100 each.

This certifies that E. B. Place is entitled to fifty (50) shares of full-paid capital stock of Sparkman, Place & King, transferable only on the books of the company, in person or by attorney, on surrender of this certificate.
New York, April 3d, 1868.

J. D. SPARKMAN, *Pres't.*
JA'S T. SPARKMAN, *Sec'y.*

[Revenue stamp, 25 c'ts.]

Canceled June 19, 1869. J. D. Sparkman, pres. Ja's T. Sparkman, sec'y.

134 No. 40. Issued to Ephraim B. Place, of the city of New York, for fifty shares; date, April 3d, 1868. Received the above certificate.

EPHRAIM B. PLACE.

(Endorsed:)
For value received, I hereby sell, transfer, and assign to Ferris A. Barker the shares of stock within mentioned, and authorize him to make the necessary transfer on the books of the company.
Witness my hand and seal this nineteenth day of June, 1869.

R. TEN BROECK, [L. S.]
Assignee of E. B. Place.

Witnessed by—
JA'S K. VAN BRUNT.

[Revenue stamp, 25 c'ts.]

Q. 57. Please look at the book which you identified as the transfer-book, and say in whose handwriting is the signature to transfers Nos. 1, 2, 3, and 4.
A. In the handwriting of my father, James D. Sparkman.
Q. 58. The filling up is in whose handwriting?
A. I think it is in M'r Wallis's.

Transfers 1, 2, 3, and 4 are hereto annexed.

SPARKMAN, PLACE & KING.

NEW YORK, *June* 4, 1867.

Transfer No. 1.

For value received, I, James D. Sparkman, of the city of New York, do hereby sell, assign, and transfer to James K. Place, of the same place, two hundred shares of the capital stock of Sparkman, Place & King, standing in my name on the books of the company.

JAMES D. SPARKMAN.

No. shares, 200.
Transferred by James D. Sparkman, (ledger folio, .)
Transferred to James K. Place, (ledger folio, .)
No. certificate surrendered, 1.
No. certificates issued, 2 to 5, inc.
Dated June 4, 1867.

SPARKMAN, PLACE & KING.

NEW YORK, *June* 4, 1867.

Transfer No. 2.

For value received, I, James D. Sparkman, of the city of New York, do hereby sell, assign, and transfer to Charles Place, of the same place, two hundred shares of the capital stock of Sparkman, Place & King, standing in my name on the books of the company.

JA'S D. SPARKMAN.

No. shares, 200.
Transferred by Ja's D. Sparkman, (ledger folio, .)
Transferred to Cha's Place, (ledger folio, .)
135 Number certificate surrendered, 1.
Number certificates issued, 10 to 13, inc.
Dated June 4, 1867.

SPARKMAN, PLACE & KING.

NEW YORK, *June 4th*, 1866.

Transfer No. 3.

For value received, I, James D. Sparkman, of the city of New York, do hereby sell, assign, and transfer to James T. Sparkman, of the same place, two hundred shares of the capital stock of Sparkman, Place & King, standing in my name on the books of said company.

JAMES D. SPARKMAN.

No. shares, 200.
Transferred by Ja's D. Sparkman, (ledger folio, .)
Transferred to Ja's T. Sparkman, (ledger folio, .)
No. certificate surrendered, 1.
No. certificates issued, 6 to 9, inc.
Dated June 4, 1867.

SPARKMAN, PLACE & KING.

NEW YORK, *June 4th*, 1867.

Transfer No. 4.

For value received, I, James D. Sparkman, of the city of New York, do hereby sell, assign, and transfer to William King, of Perth Amboy, N. J., two hundred shares of the capital stock of Sparkman, Place & King, standing in my name on the books of the company.

JAMES D. SPARKMAN.

No. shares, 400.
Transferred by James D. Sparkman, (ledger folio, .)
Transferred to W'm King, (ledger folio, .)
No. certificate surrendered, 1.
No. certificates issued, 18 to 25, inc.
Dated June 4, 1867.

Q. 59. Where is the transfer No. 5, which now appears to be cut or torn from this book?

A. I don't know.

Q. 60. Look at transfer No. 6, and state in whose handwriting are the signatures and filling up of the same.

A. James K. Place's.

Q. 61. In whose handwriting are the marginal entries?

A. James K. Place's.

Q. 62. Is or is not the date July, on transfer No. 6, written over an erasure?

A. Yes, sir.

Q. 63. What was the date originally written there?

A. November.

Q. 64. When was this date written there?

A. I don't know.

Transfer No. 6 hereto annexed.

136 SPARKMAN, PLACE & KING.

NEW YORK, *July* 1, 1867.

Transfer No. 6.

For value received, I, Ja's K. Place, of the city of New York, do hereby sell, assign, and transfer to Ja's T. Sparkman, of the same place, two hundred shares of the capital stock of Sparkman, Place & King, standing in my name on the books of the company.

JA'S K. PLACE.

No. shares, 200.
Transferred by Ja's K. Place, (ledger folio, .)
Transferred to Ja's T. Sparkman, (ledger folio, .)
No. certificates surrendered, 2, 3, 4, and 5.
No. certificates issued, .
Dated 1 July, 1867.

Q. 65. In whose handwriting are the signatures and filling up of transfers Nos. 7 and 8?

A. Mine.

Q. 67. Is or is not the date November in each of these transfers written over an erasure?

A. Yes, sir.

Q. 68. What was the date originally there?

A. I don't remember.

Q. 69. In whose handwriting are the marginal entries?

A. Mine.

Q. 70. The marginal entry of transfer No. 7 refers to certificate No. 36, which does not appear to have been replaced in the stock-book; where is that stock-book?

A. I don't know.

Q. 71. What did you give for the stock transferred to you by transfer No. 6, if anything?

A. Nothing.

Transfers Nos. 7 and 8 are hereto annexed.

SPARKMAN, PLACE & KING.

NEW YORK, *Nov.* 1*st*, 1867.

Transfer No. 7.

For value received, I, Ja's T. Sparkman, of the city of New York, do

hereby sell, assign, and transfer to Susan A. Place, of the same place, one hundred and ninety-five shares of the capital stock of Sparkman, Place & King, standing in my name on the books of said company.

JA'S T. SPARKMAN.

No. shares, 195.
Transferred by James T. Sparkman, (ledger folio, .)
Transferred to Susan A. Place, (ledger folio, .)
No. certificates surrendered, 26, 27, 28, and 29.
No. certificate issued, 36.
Dated Nov. 1st, 1867.

137 SPARKMAN, PLACE & KING.

NEW YORK, *Nov.* 1*st*, 1867.

Transfer No. 8.

For value received, I, James T. Sparkman, of the city of New York, do hereby sell, assign, and transfer to James K. Place, of the same place, five shares of the capital stock of Sparkman, Place & King, standing in my name on the books of said company.

JA'S T. SPARKMAN.

No. of shares, 5.
Transferred by Ja's T. Sparkman, (ledger folio, .)
Transferred to James K. Place, (ledger folio, .)
No. certificates surrendered, 26, 27, 28, and 29.
No. certificate issued, 35.
Dated Nov. 1st, 1867.

Q. 72. Look at transfers Nos. 9 & 10, and state in whose handwriting are the filling up and signatures thereto and the marginal entries.

A. The filling up and marginal entries were made by one of the clerks of Sparkman, Place & King.

Q. 73. The signature of No. 9 is what?

A. James D. Sparkman's.

Q. 74. No. 10 is whose?

A. Mine.

Q. 75. What did you give for the 200 shares mentioned in transfer No. 9?

A. My note.

Q. 76. For how much?

A. $9,800.

Q. 77. At how long?

A. Three years.

Q. 78. Three years from when?

A. November, 1867, I don't remember the date; my impression is it is the date of the transfer.

Q. 79. Is or is not that a true date?

A. It is.

Q. 80. Was that the date of the transaction?

A. I don't remember.

Transfers Nos. 9 and 10 are hereto annexed.

SPARKMAN, PLACE & KING.

NEW YORK, *Nov.* 1*st*, 1867.

Transfer No. 9.

For value received, I, James D. Sparkman, of the city of New York, do hereby sell, assign, and transfer to James T. Sparkman, of the same

place, two hundred shares of the capital stock of Sparkman, Place & King, standing in my name on the books of said company.

JA'S D. SPARKMAN.

No. shares, 200.
Transferred by James D. Sparkman, (ledger folio, .)
Transferred to James T. Sparkman, (ledger folio, .)
No. certificates surrendered, 14 to 17.
No. certificates issued, 30 to 33.
Dated Nov. 1, 1867.

138 SPARKMAN, PLACE & KING.

NEW YORK, *Nov. 1st*, 1867.

Transfer No. 10.

For value received, I, James T. Sparkman, of the city of New York, do hereby sell, assign, and transfer to James D. Sparkman, of the same place, two shares of the capital stock of Sparkman, Place & King, standing in my name on the books of said company.

JA'S T. SPARKMAN.

No. shares, 2.
Transferred by James T. Sparkman, (ledger folio, .)
Transferred to James D. Sparkman, (ledger folio, .)
No. certificate surrendered, 30.
No. certificate issued, 34.
Dated Nov. 1, 1867.

Q. 81. Where did your father reside from December, 1865, to October, 1868?

A. 42d street.

Q. 82. The number?

A. 27. Will you allow me to correct that? I don't remember when he removed away from there.

Q. 83. Where did he reside in December, 1865?

A. In 42d street.

Q. 84. Give the number.

A. No. 27.

Q. 85. How long did he live there? How long do you remember his living there?

A. I think he moved there in 1862 or 1863.

Q. 86. And how long did he continue to live there?

A. Until 1868.

Q. 87. Was there a carriage and horse attached to that establishment?

A. Yes, sir.

Q. 88. What became of those after the decease of M'r's Mary A. Sparkman?

A. They were sold at auction.

Q. 89. What was done with the proceeds?

A. Merged with the effects of the estate.

Q. 90. Did you receive the proceeds?

A. Yes, sir.

Q. 91. What were they?

A. Cash.

Q. 92. What amount?

A. About $2,200, I think, or in that neighborhood.

Q. 93. Had you anything to do with a will made by M'r's Mary A. Sparkman?

A. In what respect?

Q. 94. In any respect; had you anything to do with carrying it into effect?

A. Yes, sir.

Q. 95. What?

A. I acted as executor.

Q. 96. When did you make an inventory?

A. I don't remember; I think my previous testimony gives nearer date than I could remember now.

Q. 97. Was it before November, 1867, that you made an inventory?

139 A. I can't remember now.

Q. 98. Did you make an inventory within a year after your qualifying as executor?

A. Yes, sir.

Q. 99. Did you make an inventory before you received certain bonds mentioned in the bill of complaint in this cause?

A. I don't remember.

Q. 100. Did you include such bonds in your inventory?

A. Yes, sir.

Q. 101. When did you receive the bonds which you included in that inventory, if ever?

A. When I received the effects of the estate.

Q. 102. When was that?

A. When I became executor.

Q. 103. Did you receive those bonds in November, 1866?

A. I don't remember the date.

Q. 104. Can't you answer that question? Did you receive them in November, 1866?

A. I received them at the same time with the other effects of the estate.

Q. 105. I want the month and the year.

A. I don't remember.

Q. 106. What was your occupation when you received the bonds?

A. I was organizing Sparkman, Place & Co.

Q. 107. Where were you when you received the bonds?

A. I don't remember.

Q. 108. How do you know you received the bonds?

A. That is a difficult question to answer; I don't understand.

Q. 109. How do you know you received them? What faculty do you exert when you give answer; your memory, or your imagination, or what?

A. I remember receiving them.

Q. 110. With what other effects of the estate, as you call them?

A. The lease of the 42d street property.

Q. 111. What else?

A. Horses and carriages, and some personal effects.

Q. 112. Then the horses, and carriages, and the lease, and the bonds, and some personal effects, all came to you together?

A. Not that I remember of.

Q. 113. What made you say so?

A. I don't think I did say so.

Q. 114. Did the bonds, and the horses, and the carriages, and the lease, and the personal effects all come together, or at different times?

A. I received them at different times.

Q. 115. Which did you receive first?

A. I don't remember.

Q. 116. What did you mean by saying that you received the bonds with the other effects of the estate?

140 A. I mean that they were a part of the inventory.

Q. 117. Did you receive the horses and carriages, and bonds and lease, and personal effects all together?

A. I had an inventory of them all—of the property I received at different times.

Q. 118. Did you receive them all from the same person?

A. No, sir.

Q. 119. Did you receive them all at the same place?

A. No, sir.

Q. 120. At what place did you receive the horses and carriages, and from whom?

A. I went to the stable and took them.

Q. 121. At what place did you receive the personal effects, and from whom?

A. They were inventoried by——

Q. 122. No matter about "inventoried;" at what place did you receive them, and from whom?

A. I received them in the house in 42d street.

Q. 123. From whom?

A. I don't remember.

Q. 124. At what place and from whom did receive the lease?

A. I don't remember.

Q. 125. At what place and from whom did you receive the bonds?

A. I don't remember.

Q. 126. What were the numbers of the bonds?

A. I don't remember.

Q. 127. What was the description of the bonds?

A. 7-30's and 5-20's.

Q. 128. You say you received them in 1866?

A. I said that I didn't remember when I received them.

Q. 129. Did you receive them in 1866?

A. I think I did.

Q. 130. What did you do with them; how did you dispose of them?

A. I made no disposition of them.

Q. 131. Have you get them yet?

A. No, sir.

Q. 132. Did you swallow them?

A. No, sir.

Q. 133. Did you burn them up?

A. No, sir.

Q. 134. Did you lose them?

A. No, sir.

Q. 135. Have they been stolen from you?

A. No, sir.

Q. 136. Where are they?

A. Sold.

Q. 137. What did you mean by denying that you had made any disposition of them?

A. I meant that I had made no disposition of them at the time I had received them, except to take care of them.

Q. 138. How long did you keep them before they were sold?

A. I think they were sold in the latter part of 1867 or the early part of 1868.

Q. 139. How long did you keep them before they were sold?

A. I don't remember.

Q. 140. Was it ten years?

141 A. No, sir.

Q. 141. Was it nine years?

A. It was less than that.

Q. 142. Do you mean to say that a year elapsed between the time you got them and the time when you sold them?

A. As near as I can remember.

Q. 143. Were the 5-20's 5-20's of 1867?

A. The 7 30's were 7-30's of 1867.

Q. 144. Then you received 7-30's of 1867 in the year 1866, did you?

A. I mean by 1867 those that were convertible at that time.

Q. 145. When were the 5-20's issued?

A. It was the 5 20's that were convertible bonds.

Q. 146. You are perfectly clear, are you, that in November, 1866, you received a batch of bonds, including both kinds, 7-30's and 5-20's?

A. I said I didn't remember the date that I received them.

Q. 147. Did you make a memorandum of the numbers of them?

A. Yes, sir.

Q. 148. Did you testify to the numbers on your former examination?

A. I testified to the memorandum that I made.

Q. 149. That was a memorandum by you, wasn't it?

A. Yes, sir.

Q. 150. Did it correctly state the numbers?

A. Yes, sir.

Q. 151. Look at your former examination and state the numbers. Do you recognize your deposition in a former suit, now shown you, and hereto annexed?

A. Yes, sir.

Q. 152. Now please give the numbers of the bonds.

A. 75,207 to 75,232—7 30's—$7\frac{3}{10}$ per cent.

Q. 153. And the others?

A. Fourteen 5-20's, 24,399 to 24,412, inclusive.

Q. 154. You kept them a year, did you?

A. Yes, sir; I think I did.

Q. 155. Where did you keep them?

A. Kept them locked up in M'r Place's safe.

Q. 156. Did you have the key of the safe?

A. No, sir; I did not.

Q. 157. Who put them in M'r Place's safe?

A. I don't know.

Q. 158. How do you know they were in M'r Place's safe?

A. Because they were handed to father for safe-keeping, and he told me that they were there.

Q. 159. When did you hand them to your father?

A. I don't remember.

Q. 160. What did you say to him when you handed them to him?

A. I don't remember.

Q. 161. What made you say you handed them to him for safe-keeping?

A. Because I remember that; that I left them with him for safe-keeping.

142 Q. 162. Then you didn't hand them to him?

A. I don't say that I didn't hand them to him.

Q. 163. Well, did you hand them to him, or did you leave them with him?

A. I don't remember the circumstances.

Q. 154. Did you write him a letter when you left them with him or handed them to him?

A. No, sir.

Q. 165. Was it after you had made this memorandum of the numbers that you handed them to him or left them with him?

A. I don't remember.

Q. 166. Are they the same bonds of which you have given the numbers that you handed to him?

A. Yes, sir.

Q. 167. Did you ever see them again after leaving them with him?

A. Yes, sir.

Q. 168. When?

A. I saw them several times.

Q. 169. Where?

A. Why, I can't remember now, where.

Q. 170. Was it in church?

A. Not exactly.

Q. 171. Was it at a theatre?

A. I don't think it was.

Q. 172. Was it in Brooklyn?

A. No, sir.

Q. 173. Was it on this continent?

A. Yes, sir.

Q. 174. Whereabouts on this continent was it?

A. New York.

Q. 175. Which ward of New York?

A. I don't remember.

Q. 176. Was it the twentieth?

A. I don't remember.

Q. 177. Was it the twelfth?

A. I don't remember.

Q. 178. Do you know where the twelfth is?

A. No, sir; I do not.

Q. 179. What ward is the store No. 209 Pearl street situated in?

A. The second, I think.

Q. 180. What ward is No. 134 Front street situated in?

A. I think the same.

Q. 181. Was it in the second ward that you saw them?

A. I saw them there.

Q. 182. In the second ward?

A. Yes, sir.

Q. 183. In a house or in the street?

A. I saw them in both places.

Q. 184. In a house and in the street?

A. Yes, sir.

Q. 185. What house and what street?

A. I don't remember what street.

Q. 186. What makes you think you saw them in the street?

A. Because I think I have taken them out of my pocket and put them from one pocket in the other.

Q. 187. In the street?

A. Yes, sir.

Q. 188. You were in the habit of carrying them in the street, were you—in your pocket?

A. Not in the habit.

Q. 189. How many times did you do that?

A. I don't remember.

143 Q. 190. Then you never saw them in a house?

A. Yes, sir.

Q. 191. What house?

A. I saw them in the 42d-street house.

Q. 192. I am speaking of the time after you handed them to your father for safe-keeping, as you say.

A. I saw them in Pearl street.

Q. 193. What other place?

A. 42d street.

Q. 194. After you handed them to your father for safe keeping did you see them in 42d street?

A. Yes, sir; I think I did.

Q. 195. Did you take them up there from down town?

A. Not that I remember.

Q. 196. How did they get there?

I have an indistinct recollection of father's carrying them in his pocket over one night, but I cannot say positively about that.

Q. 197. Through whom did you sell them?

A. I don't remember.

Q. 198. Did you receive the proceeds?

A. Yes, sir.

Q. 199. What did you do with them?

A. Loaned them to Sparkman, Place & King.

Q. 200. How long had they been in your possession before that sale, the last time?

A. They had always been in my possession since I was the executor.

Q. 201. Did you carry M'r Place's safe around with you?

A. No, sir.

Q. 202. How do you reconcile your statement that they were in M'r Place's safe with the statement that they were always in your possession?

A. Because I considered that they were in my possession when they were there.

Q. 203. You had no key of that safe?

A. No, sir.

Q. 204. No means of access to them?

A. No, sir.

Q. 205. And you are willing to swear that they were in that safe?

A. As far as I know.

Q. 206. If M'r Burritt has testified that they were taken out of the safe and placed in the possession of Daniel S't Amant, has he told the truth or not?

A. I don't know.

Q. 207. When, in your deposition taken in a former suit, which is annexed to your present deposition, you stated that in November, 1867, you received some 7-30 and 5-20 bonds, did you state the truth or not?

A. Yes, sir:

Q. 208. Do you remember that circumstance?

A. I didn't mean that I received anything that was new to me.

Q. 209. Do you remember that circumstance of receiving those

144 bonds in November, 1867?

A. Yes, sir.

Q. 210. Where did that happen?

A. I think my previous testimony—I will refer you to that; I don't remember now.

Q. 211. You don't remember where it happened?
A. No, sir.
Q. 212. How long after that you sold them?
A. A few months.
Q. 213. Did you receive anything from Sparkman, Place & King for the proceeds of the bonds?
A. Yes, sir.
Q. 214. What?
A. I received their notes.
Q. 215. Were those notes true or falsely dated?
A. Truly, as near as I know.
Q. 216. Did you loan the money at the time of the dates of those notes?
A. I think I received the notes in exchange for the cash.
Q. 217. At the time of paying them the cash?
A. Not immediately; not upon the same day, I don't think.
Q. 218. But after paying them the cash, did you?
A. I don't remember.
Q. 219. Did you receive the notes before paying them the cash?
A. No, sir.
Q. 220. Did you receive them after paying the cash?
A. Yes, sir.
Q. 221. Give the dates of the notes.
A. I don't remember them. (Referring to printed book of testimony.) I think those are correct.
Q. 222. Give the dates of the notes.
A. November 24th.
Q. 223. What year?
A. 1867.
Q. 224. For how much?
A. $30,000.
Q. 225. Was that the proceeds of the bonds?
A. Yes, sir.
Q. 526. What was the next loan to them, the date of it?
A. December 24, 1867.
Q. 227. How much?
A. $3,489.
Q. 228. What was the next?
A. $10,000.
Q. 229. And the date?
A. December 26, 1867.
Q. 230. Was that the proceeds of the bonds also?
A. I think it was.
Q. 231. Who was president of that corporation?
A. James D. Sparkman.
Q. 232. Who signed the notes which you received?
A. He signed some, and I signed some myself as secretary of the company.
Q. 233. Did you or not in November, 1867, find lying on your desk, at No. 209 Pearl street, $40,000 of 5-20 and 7-30 bonds?
A. I believe my previous testimony——
Q. 234. No matter about your previous testimony. Did you or not?
A. I don't remember.
Q. 235. Did you find anything on your desk in November, 1867, at No. 209 Pearl street?
A. Yes, sir.

145 Q. 236. What was it?
A. I don't remember.
Q. 237. What is your age, M'r Sparkman?
A. Twenty-seven years.
Q. 238. Your memory is very defective, isn't it?
A. Yes, sir; rather.
Q. 239. Do you think it to any extent unfits you for the transaction of your business—the defectiveness of your memory?
A. No, sir.

JA'S T. SPARKMAN.

Subscribed and sworn to before me this 21st April, 1870.
R. E. STILWELL,
Special Examiner.

U. S. circuit court.

JOHN SEDGWICK, AS ASSIGNEE,
against
JAMES K. PLACE ET AL.

NEW YORK, *March* 26, 1869.

Before Examiner Stilwell.

JAMES T. SPARKMAN sworn and examined by M'r Bangs:

Q. Are you a relative of James D. Sparkman, and how?
A. A son.
Q. Were you connected with the corporation of Sparkman, Place & King?
A. Yes, sir.
Q. In what capacity?
A. As secretary of that company.
Q. For how long?
A. Since its organization.
Q. Was your father a stockholder?
A. Yes, sir.
Q. To what amount?
A. I don't remember exactly.
Q. As near as you can remember.
A. Nearly $25,000.
Q. How near to $25,000?
A. That is as near as I can give it to you.
Q. Was it $25,000?
A. I think it was less than $25,000.
146 Q. How long ago had he ceased to be a stockholder?
A. He was a stockholder in Nov. to the amount of a few shares.
Q. November what?
A. 1867.
Q. What became of the shares he then held?
A. They were assigned to the assignees.
Q. What became of those he held previously?
A. He sold them.
Q. To whom?
A. Myself.
Q. For how much?
A. Between $18,000 and $19,000.
Q. When was that?

A. I don't remember the date.
Q. How near November, 1867?
A. My impression is that it was the early part of November.
Q. How did you pay him?
A. A note.
Q. For how long?
A. Three years.
Q. For what amount?
A. The amount that I stated—between $18,000 and $19,000.
Q. Were you worth that amount in your own right?
A. I was.
Q. In any other property than the stock of the company?
A. Yes, sir.
Q. What other property had you?
A. I had some Manufacturers' Bank stock.
Q. Did you derive that from him?
A. No, sir.
Q. How much was it?
A. $1,800.
Q. What else had you?
A. Petroleum stock.
Q. Of what value?
A. That I don't remember.
Q. Of any value?
A. I didn't consider it of any value.
Q. Anything else that you had?
A. I had some personal property.
Q. What was the value?
A. I could not approximate.
Q. $100,000?
A. No, sir.
Q. $1,000?
A. I should think that would cover it.
Q. Then you were worth in all $2,800 and some petroleum stock?
A. And some stock of Sparkman, Place & King.
Q. How much?
A. I had $20,000.
Q. Besides this that you purchased?
A. Yes, sir.
Q. How did you derive that?
A. I purchased it.
Q. From whom?
A. My contribution to the original stock of the company.
Q. How did you contribute it?
A. In money.
Q. Was the money yours?
A. The money was mine.
Q. From whom did you receive it?
A. My previous earnings.
Q. Did you receive a transfer of stock from J. K. Place?
A. Yes, sir.
Q. When?
A. I don't remember.
Q. What did you give him for it.
A. I didn't give him anything for it?
Q. Was it 195 shares?

147 A. I don't remember.

Q. What is your best recollection as to the quantity?

A. I think that is about the amount; I can't remember.

Q. How large a stockholder was he?

A. He had one-sixth—200 shares.

Q. What did that cost—what was their par value?

A. $100 a share.

Q. Didn't he originally have 300 shares?

A. Not to my knowledge.

Q. Do you know what the item on the books of James K. Place & Co., "Sparkman, Place & King, D'rs, $30,000," represented?

A. I never saw James K. Place & Co.'s books.

Q. Did you know of any transaction which justifies such an entry?

A. I cannot testify in regard to them at all; I never saw them; the original contribution of James K. Place to Sparkman, Place & King was $30,000, and for that he took 200 shares of the stock at the par value of $100.

Q. In November, 1867, did you receive from any person connected with J. K. Place & Co. some 7.30 and 5.20 bonds?

A. Not that I remember.

Q. Did you receive any?

A. Yes, sir.

Q. From whom?

A. I don't remember.

Q. How did you receive them?

A. I think they were enclosed to me.

Q. In what?

A. In an envelope.

Q. Where did you receive it?

A. I think in our office.

Q. Who handed it to you?

A. I don't remember.

Q. Did you know what it was when it was handed to you?

A. I did when I opened the envelope.

Q. When it was handed to you, did you know what it was?

A. It was sent to me, as near as I can remember.

Q. Did you receive it by mail?

A. I think not.

Q. Was it handed to you?

A. I don't remember.

Q. In what way did you receive it if it was not handed to you and it was not sent by mail?

A. It might have been sent by a messenger.

Q. Did the messenger throw it to you or did he hand it to you?

A. I said it was sent to me—probably laid upon my desk; I found it there; I don't remember the circumstances.

Q. Don't you remember whether you found it on your desk or whether it was handed to you, or whether you received it by mail?

A. I don't.

Q. Did you advertise for the owner?

A. No, sir.

Q. Why not?

148 A. I was informed that they belonged to the estate of M. A. Sparkman.

Q. Who informed you so?

A. I don't remember.

Q. When were you so informed, and where?
A. I don't remember when; I think it was in our office.
Q. What makes you think so?
A. Because that would be the most natural place.
Q. Is not that an inference?
A. Yes, sir.
Q. Is that not an inference altogether, that you were so informed; have you any recollection of being so informed?
A. No positive recollection of being so informed.
Q. Why didn't you advertise for the owner?
A. I presume the knowledge that I had at the time gave me to understand that they belonged to me as executor of the estate.
Q. What knowledge had you at that time?
A. It is so long ago, and the circumstance made no impression on my mind, that I can't tell whether I got the information verbally or whether there was a note, but I was informed.
Q. I think you said that you had a knowledge at that time that they belonged to the estate of M. A. Sparkman; now I ask you what knowledge you had at the time on that subject?
A. I told you that I was informed of the fact, but I can't remember how or in what manner I was informed.
Q. When you say you had a knowledge at the time that they belonged to the estate of M. A. Sparkman did you refer to something that you were informed of at the time or something that you knew previously?
A. Those bonds were part of the effects handed to me.
Q. How do you know they were handed to you as executor of that estate?
A. I got them with other effects.
Q. What other effects?
A. Some real estate.
Q. What real estate?
A. In 42d street.
Q. Was that delivered to you at the same time?
A. It depends upon what you consider a delivery.
Q. It depends on what you consider a delivery. I am asking you what you know you got at the same time with some other effects; I ask you if they were delivered to you at the same time and in the same way?
A. I don't know how to answer the question.
Q. What do you mean—that you got the real estate in 42d street at the same time?
A. That lease belonging to M'r's Sparkman.
149 Q. What lease?
A. In 42d street, and some pictures and some furniture, and these bonds.
Q. You got several documents together, did you, at the same time?
A. No sir; I got them at different times.
Q. Did anything reach you at the same time with these bonds?
A. I don't remember.
Q. What makes you say you got them at different times?
A. I could not tell you; I say I don't remember how I got them, or where I got them.
Q. How long had you been executor the 1st of November, 1866?
A. Shortly after my mother died.
Q. Did you qualify about November, 1866?
A. I should say so.

Q. When did you swear to your inventory, if ever?
A. I don't remember.
Q. Did you ever swear to it?
A. I don't remember when I did.
Q. I ask you if you ever swore to it?
A. Yes, sir; I think I did.
Q. Did you apply for the appointment of an appraiser until after November 20, 1867.
A. The application was made through the counsel of the estate; I don't remember when it was done.
Q. Do you say that was before November 20th, 1867, or afterwards?
A. I don't remember; M'r Wallis can tell you.
Q. Then the first you ever saw of these bonds was about a year after M'r's Sparkman's death, was it?
A. As near as I can remember, it was.
Q. And the first you can remember about them is their making their appearance in your office in some way you cannot remember?
A. That is the first I saw of them; yes, sir.
Q. Had you possession of any paper relating to them at the time?
A. I had not; my impression is that my father had.
Q. What makes you say that?
A. Because he was more conversant with the affairs of the estate than I was.
Q. Did you ever see any papers relating to it?
A. Not that I know of.
Q. Were twenty-six of these bonds 7.30's and fourteen 5-20's?
A. There was a large amount of 5-20's, and they were not divided even; I presume that is correct.
Q. Were twenty-six of these bonds 7.30's and fourteen 5-20's?
A. I don't remember.
Q. Were they, each of them, $1,000?
A. I think they were.
Q. What was the total amount?
A. $40,000.
Q. Have you possession of them still?
A. Not those bonds.
150 Q. Have you converted them into money, and re-invested the proceeds?
A. We have some bonds, and some have been re-invested.
Q. Some of those bonds?
A. Not some of those bonds.
Q. Have they all been converted into money—those that you received in November, 1867?
A. We hold some bonds now—some 5-20's.
Q. I ask you of the bonds you received in Nov., 1867?
A. It is hard to tell if they were the same bonds; I should say it was difficult to tell.
Q. Tell, if you can. Do you know whether you have any of those 5-20's and 7.30's which you have referred to as being left on your desk or conveyed to yourself in November, 1867, by some means?
A. I don't know whether we have the same bonds or not.
Q. How did those bonds get to you in Nov., 1867?
A. I have answered that question.
Q. What answer did you give? Do you mean you don't know?
A. Yes, sir.

Q. When you became executor did you take possession of M'r's Sparkman's effects?

A. I suppose so, virtually.

Q. What do you mean by that? Didn't you go on selling horses and carriages?

A. Yes, sir.

Q. Didn't you take possession of her effects, or what you considered as her effects?

A. Yes, sir.

Q. Did you take possession of her papers—that is notes, bonds, bills receivable, evidences of debt, title-deeds, and such like—did you take possession of?

A. They were in father's safe-keeping; I suppose I may be said to have been in possession of them.

Q. He had them for you?

A. Yes, sir.

Q. Did you enumerate them—make a list of them?

A. There was an inventory taken of furniture and fixtures.

Q. Were there any title-deeds among them?

A. Not that I remember.

Q. Were there any conveyances of any kind among them, or deeds or transfers of property or leases?

A. Not that I remember; there was a lease of property in 42nd street.

Q. Did you find any papers among your mother's effects?

A. Yes, sir; I found papers.

Q. Will you state what they were?

A. I cannot state what they were for; I don't remember.

Q. Have you got them now?

A. Yes, sir.

151 Q. To whom have you paid the income of M'r's Sparkman's estate since you qualified as executor?

A. To my father.

Q James D. Sparkman, formerly a member of the firm of J. K. Place & Co.?

A. Yes, sir.

Q. Have you paid to him the income derived from those securities which reached you in November, 1867?

A. Yes, sir.

Q. Look at that memorandum, and state, if you please, whose handwriting it is in.

A. Mine.

Copy offered in evidence, as follows:

"Memo. U. S. bonds.—26 $7\frac{3}{10}$ per cent., 74,207 *a* 74,232, inclusive. June series—mature June 15, '68. 14 $5\frac{20}{100}$, 24,399 *a* 25,412, inclusive. Estate M. A. S."

On the opposite side printed as follows:

Statement M. To Sparkman, Place & Co., of 209 Pearl street."

Q. When did you make that memorandum?

A. Previous to the appraisement of the estate.

Q. At what date did you make it, I mean.

A. I don't remember the date.

Q. What was it made from?

A. From the bonds themselves.

Q. What bonds?

A. The bonds represented there on that memorandum, belonging to the estate.

Q. The same bonds of which you have previously spoken as having been found by you on your desk?
A. The same.
Q. Were those the numbers of the bonds?
A. Yes, sir.
Q. Have you any of them still?
A. None of those, but new ones substituted for them.

Cross-examined by Mr. Wallis:

Q. What did you do with the 195 shares of stock of Sparkman, Place & King, that you say you obtained from James K. Place?
A. Transferred it to Susan A. Place.
Q. How soon after you received it?
A. Immediately.
Q. For what purpose did you receive it?
A. For that purpose.
152 Q. Among the papers of Mary Ann Sparkman, after her death, did you find any papers or memorandums relating to any 7.30 and 5-20 bonds?
A. Yes, sir.
Q. What was it?
A. A memorandum similar to the one I have shown here.
Q. Did you make any inquiry in relation to these bonds?
A. Yes, sir.
Q. What did you ascertain about them?
A. I ascertained that they were at James K. Place & Co's for safe-keeping.
Q. From whom did you understand it?
A. My father, one of the members of the house.
Q. Did you receive these bonds in the manner that you have stated, before or after the failure of the firm of Jas. K. Place & Co.?
A. Before.
Q. What did Mary Ann Sparkman's estate consist of, besides the leasehold premises in 42d street you have spoken of, the furniture contained in them, the horses and carriages you have spoken of, and these $40,000 worth of bonds?
A. Some pictures and furniture.
Q. Is that all?
A. It was all; yes, sir—jewelry and some matters of that sort.
Q Jewelry and personal clothing?
A. Yes, sir.
Q. Among her papers, after her death, did you find any lease or leases of these premises in 42d street?
A. Yes, sir.
Q. And this memorandum relating to the bonds?
A. Yes, sir.
Q. How soon after her death was it that you found these papers—about within a short or a long time?
A. It was within a short time.
Q. You are not the son of Mary Ann Sparkman, are you?
A. No, sir.
Q. You are your father's son by a previous marriage?
A. Yes, sir.

Redirect examination by M'r Bangs:

Give the date of Ja's K. Place transferring 195 shares to you?
A. I don't remember.

Q. Was it in 1840?
A. I was not living at that time.
Q. Can't you get any nearer to the date than you have; I don't ask the hour of the day?
A. If you mean the year, it was 1867.
Q. What month of 1867?
A. November.
Q. What day in November?
A. I don't remember.
Q. Was it after or before you gave your father your note, or was it at the same time?
A. I don't remember.
153 Q. Was it after or before you heard of the failure of the firm?
A. Before.
Q. How long before?
A. I don't remember.
Q. Is there anything which will enable you to fix the date of the transfer to M'r's Place?
A. Yes, sir.
Q. What.
A. By reference to the books of Sparkman, Place & King.
Q. When have you referred to them last?
A. I don't remember when I referred to those books.
Q. When did you hear of the failure of James K. Place & Co.?
A. The 20th of November I think it was—I may be incorrect in regard to the date.
Q. Was it on the 19th that you found the bonds?
A. I don't remember.
Q. Why, then, did you swear you found them before you heard of the failure?
A. Because I did.
Q. Where is the memorandum which you spoke of having found?
A. Which memorandum do you refer to?
Q. The memorandum you referred to.
A. Of the bonds?
Q. Yes, sir.
A. I think I destroyed it.
Q. Who destroyed it?
A. I don't positively say that it is destroyed; I don't remember where the memorandum is.
Q. Why did you say it was destroyed?
A. I didn't say it was destroyed.
Q. Why did you say you thought it was destroyed?
A. Because I made a fresh memorandum of it myself; I would never destroy an on y memorandum of that sort.
Q. Then it is inference, is it?
A. Yes, sir.
Q. When did you find that memorandum?
A. I had that memorandum before the bonds were sent to me; there was a memorandum of these bonds being in the safe-keeping of James K. Place & Co.
Q. When did you find that memorandum?
A. I don't remember exactly when.
Q. What year was it?
A. 1866, I think.

Q. Did it contain the same identical numbers as the memorandum shown you?

A. Yes, sir.

Q. Where did you find it?

A. It was part of the other papers that I had, which I have enumerated.

Q. Where did you find it?

A. It was given me with the other papers.

Q. Where did you find it?

A. I say I got it with the other papers; I didn't find it.

Q. Do you mean you didn't find it?

A. I received that paper with the other papers of the estate.

154 Q. When you said you found it, did you mean that or not?

A. I did not mean literally I found it.

Q. What did you mean?

A. I meant that I received it with the other papers of the estate.

Q. Who did you receive it from?

A. It was part of the effects that came into my possession; so near as I remember, from the same source as the others.

Q. Who did you receive it from?

A. I think my father.

Q. Didn't you say your father kept the papers; and, if you did, do you wish to withdraw that statement?

A. If I said that he kept them, I meant that he kept those papers for safe-keeping for me.

Q. Where did he keep them?

A. I don't know.

Q. Was that memorandum—being the one which you first mentioned on your cross-examination—among the papers which he kept?

A. I think it was.

Q. Did you find those bonds on your desk after the transfer of the 195 shares by J. K. Place, or before?

A. I don't remember.

Q. Had you heard anything about the affairs of James K. Place & Co. before the day on which you found the bonds?

A. I don't understand that question exactly.

Q. (Question repeated.)

A. Yes, sir.

Q. Had you heard that they had been making money; and, if so, from whom?

A. No, sir.

Had you heard the contrary?

A. No, sir; I don't remember.

Q. What had you heard?

A. I frequently heard incidental things; I heard my father say that the concern was good, or to that effect.

Q. Is that all you heard him say?

A. I can't remember what he said.

Q. Why do you state what he said, if you don't remember it?

A. The conversation which father had with me in regard to James K. Place & Co. was never of any importance; not enough to make an impression on my mind.

Q. Then it made no impression on your mind, the information that the firm had $40,000 of the property of M'r's Sparkman for safe-keeping?

A. I didn't suppose that that was a part of the property of the concern; it was an affair that interested me as executor of the estate.

Q. It was an affair that interested you?
A. Yes, sir.
Q. You considered it your duty to leave it there, did you; or
155 did you consider it a breach of your duty?
A. I considered it a safe place to leave them.
Q. Why didn't you consider it a safe place to leave them after 19th November?
A. I don't know that I considered anything about it; the bonds were sent to me.
Q. Why do you say they were sent to you?
A. Because that is the fact.
Q. How do you know it?
A. I know I got them.
Q. Why do you say they were sent to you?
A. I inferred that they were sent to me.
Q. Did you send for them?
A. No, sir.
Q. Are you sure of that?
A. Yes, sir.
Q. In the fall of 1867 did you hear nothing about the firm of James K. Place & Co., except that it was good?
A. Not that I can remember.
Q. Is it true or not that your father stated to you in the fall of 1867 that the firm had made arrangements with bankers and would now go through?
A. I think father made a statement similar to that.
Q. Is it true that he had previously to that told you that the firm was in trouble?
A. I think he did.
Q. What trouble did he specify?
A. I don't remember.
Q. How long was that prior to your finding the bonds?
A. I don't remember.
Q. Were you ever informed that James K. Place & Co. borrowed money upon those bonds?
A. No, sir.
Q. Is the memorandum of which you spoke on your cross-examination the only paper relating to those bonds which you found among the papers of Mary Ann Sparkman?
A. No, sir.
Q. Have you any other paper relating to them?
A. Yes, sir.
Q. Where is it?
A. It is in the hands of the estate's counsel for safe-keeping.
Q. Where did you receive it?
A. With the other papers of the estate?
Q. When?
A. I believe I have testified that I don't remember exactly when I received these papers.
Q. Was it within a year of your qualifying as executor?
A. I received it with the other papers of the estate; it was a part of the papers of the estate which I received.
Q. When?
A. In 1866.
Q. This particular paper which you have now last referred to, was that among those which you received in 1866, or among those which you received in 1867?

A. I received all the papers about the same time—not altogether; I received them at different times.

156 Q. I ask you if this paper which you say is in the hands of the estate's counsel was received by you in 1866 or 1867?

A. 1866.

Q. You remember that distinctly, do you?

A. I have so stated; yes, sir.

Q. Is that the fact, whether you have stated so or not?

A. Yes, sir.

Q. Did you hand it back to your father?

A. No, sir; not that I remember; I think I left it with M'r Wallis.

Q. Was it at the same time that you found the memorandum of which you have spoken on your cross-examination?

A. I don't remember.

Q. Where did you find these papers which you found in 1866, or who handed them to you?

A. They were handed to me by our counsel, as near as I can remember.

Q. Whom do you mean?

A. The counsel for the estate, M'r Wallis.

Q. That is a different gentleman from the one who was counsel for James K. Place & Co., is it not?

A. I don't know him to be such.

JAMES T. SPARKMAN.

Subscribed and sworn to before me this 7th April, 1869.

R. E. STILWELL,
Examiner, &c.

James E. Learned, being called, sworn, and examined as a witness on the part of the plaintiff, deposes and says as follows:

I know James T. Sparkman and James D. Sparkman, and each of them; for about two and one-half years prior to November, 1869, I was a clerk in the employment of the corporation called Sparkman, Place & King; during all that time James T. Sparkman acted as the secretary and James D. Sparkman acted as the president of the said corporation; a ledger of the business transactions of said corporation was kept under the direction of said James T. and James D. Sparkman; M'r William King, who was a trustee and vice-president of said corporation, sometimes directed entries to be made, as I believe, and exercised control; I see and recognize the said ledger which is now produced and shown to me; so much of the entries in the account

157 now at page 111 of said ledger as are under dates prior to February seventeenth, eighteen hundred and sixty-eight, are, some of them, in the handwriting of Edgar Coon, and the others are in the handwriting of John Ballard, both of whom were book-keepers employed by said corporation at the dates of said entries, and while said James T. and James D. were officers of said corporation as above stated; the other entries on page 111 under dates prior to December 21st, 1868, are in the handwriting of John B. Morgan, who was a book-keeper employed by said corporation at the dates of said entries, and the paper hereto annexed, marked No. 2, is a copy of all the entries now on said page 111. I further say that all the entries on page 119 of said ledger are some of them in the handwriting of said Edgar Coon, and the others are in the handwriting of said John Ballard, who were respectively book-keepers employed by said corporation at the dates of

said entries; and the paper hereto annexed, marked "No. 1," is a copy of all the entries on said page 119.

There is also an account on said ledger, at pages 110, 106, 107, and 115, of which a copy is hereto annexed, marked "No. 3," the entries in which original account are in the handwriting of the book-keepers who were respectively in the employment of said corporation at the several dates of said entries, respectively; and there is also an account on said ledger, at pages 100, 101, and 105, of which a copy is hereto annexed, marked "No. 4," and all the entries in such last-mentioned account are in the handwriting of the respective book-keepers who were employed by said corporation at the dates of said entries, respectively.

JAMES E. LEARNED.

Subscribed and sworn to before me this 15th October, 1870.

R. E. STILWELL,
Examiner, &c.

158

No. 1. (Page 119.)

ESTATE OF M. A. SPARKMAN.

	D'r.				C'r.		
1868.				1867.			
Jan'y 3	To James T. Sparkman, executor.	60	$40,000 00	Nov. 23	By cash	234	$20,000 00
				26	" "	237	10,000 00
				Dec. 26	" "	262	10,000 00
			$40,000 00				$40,000 00

J. E. LEARNED.

The following is a copy of the whole of the account on page 111 of said ledger:

No. 2. (Page 111.)

JAMES T. SPARKMAN, EXECUTOR.

1867.				1868.			
Nov. 29	To bills payable	45	$30,000 00	Jan'y 13	By estate of M. A. S.	60	$40,000 00
Dec. 31	" "	57	10, 00 00				
			$40,000 00				$40,000 00
159 1868.							
May 4	To cash	345	350 00	Jan. 18	By cash	240	3,489 04
June 30	" "		4,097 62	Feb. 17	"	306	800 00
				June 30	" labor	80	8 00
					" interest	81	150 58
			$4,447 62				$4,447 62
159 1868.				1868.			
Nov. 17	To cash	45	75 00	June 30	By balance		$4 097 62
24	"	"	269 10	June 15	" cash	362	3,470 65
25	"	"	525 00	Nov. 24	" "	42	10,000 00
Dec. 3	"	47	19 05	Dec. 15	" cartage	101	34 00
	To W. H. Gibson 27 Nov	99	2,000 00	21	" cash	52	4,035 62
	" "	"	3,000 00	31	" interest	101	1,628 67
21	To cash	54	10,000 00				
31	" balance		15,378 41				
			$31,266 56				$31,266 56
1868.				1868.			
Dec. 31	To bills payable	105	$4,289 04	Dec. 31	By balance		$15,378 41
"	" balance		12,089 37		" W. H. Gibson	105	1,000 00
			$16,378 41				16,378 41

No. 2—Continued.

1868.	D'R.			1868.	C'R.		
Dec. 31	To Ja's D. Sparkman	105	$1,821 25	Dec. 31	By balance		$12,089 37
" "	" " "	108	1,559 42	1869.			
1869.				April 17	" cash	98	10,852 66
March 5	" bills payable	111	8,708 70	June 30	" interest	122	2,021 40
June 30	" cash	129	2,021 40				
	" balance		10,852 66				
			$24,963 43				$24,963 43
				1869.			
				June 30	By balance		$10,852 66

J. E. LARNED.

No. 3.

JAMES T. SPARKMAN.

1867.	D'R.			
Jan. 19	To cash	31	$30,000 00	
May 21	" D. B. Anderson	14	22 80	
June 1	" interest	19	828 33	
				$30,851 13
1867.	C'R.			
June 1	By Ja's D. Sparkman	17	$30,000 00	
"	By expense	15	51 03	
"	By balance		800 10	
				$30,851 13
1868.	D'R.			
June 1	To balance		$800 10	
6	" cash	95	500 00	
July 1	" "	117	200 00	
31	" "	137	300 00	
Aug. 1	" "	141	200 00	
13	" "	149	200 00	
15	" "	151	200 00	
28	" "	159	268 70	
31	" "	161	250 00	
Sept. 14	" "	173	200 00	
21	" "	179	250 00	
Oct. 5	" "	193	400 00	
19	" "	205	250 00	
Nov. 9	" "	223	100 00	
15	" "	229	200 00	
23	" "	235	619 72	
Dec. 31	" "	56	125 39	
				$5,063 91
1867.	C'R.			
Dec. 31	By balance			$5,063 91
1867	D'R.			
Dec. 31	To balance		$5,063 91	
1868.				
Feb. 7	" cash	299	300 00	
20	" "	307	102 00	

No. 3—Continued.

	26	" "	308	150 00	
	29	" "	311	70 00	
March	2	" "	313	169 50	
	7	" "	315	110 67	
	13	" "	317	159 24	
161					
M'ch	17	To cash	319	$103 33	
	23	" "	321	95 90	
	26	" "	323	132 25	
	28	" "	325	100 50	
April	3	" "	327	135 00	
	7	" "	329	103 00	
	10	" "	331	157 28	
	11	" "	"	212 68	
	17	" "	335	125 22	
	22	" "	337	140 50	
	27	" "	341	132 00	
	30	" "	"	231 85	
May	2	" "	343	117 90	
	5	" "	345	116 79	
	8	" "	347	171 37	
	12	" "	349	139 63	
	16	" "	353	156 89	
	23	" "	357	114 50	
	30	" "	359	181 15	
June	2	" "	361	212 80	
	4	" "	362	113 90	
	12	" "	367	154 94	
	13	" "	"	125 00	
	16	" "	369	103 00	
	24	" "	373	122 00	
	27	" "	"	159 75	
	30	" "	375	104 85	
	"	" Interest	79	243 26	
					$10,132 56

1868.		C'R.			
		By balance			$10,132 56

1868.		D'R.			
June	30	To balance		$10,132 56	
July	3	" cash	377	119 96	
	6	" "	"	55 65	
	7	" "	379	91 81	
	8	" "	"	196 80	
	10	" "	"	239 32	
	14	" "	383	143 90	
	15	" "	"	122 48	
	17	" "	385	134 00	
	21	" "	387	117 30	
	23	" "	"	108 90	
	25	" "	389	100 00	
	31	" "	391	100 00	
Aug.	4	" "	393	149 79	
162					
Aug.	6	To cash	395	137 65	
	10	" "	"	200 84	
	13	" "	399	96 84	
	15	" "	"	103 00	
	21	" "	3	176 40	

No. 3—Continued.

	26	" "	5		101 99
	29	" "	7		106 14
Sept.	1	" "	9		201 00
	3	" "	"		412 00
	7	" "	"		97 49
	"	" "	"		65 00
	14	" "	11		194 03
	17	" "	17		106 50
	"	" yeast powder	166		5 00
	22	" cash	19		89 78
	28	" "	"		127 05
Oct.	2	" "	23		231 40
	5	" "	"		146 90
	7	" "	25		337 75
	8	" "	"		162 30
	10	" "	"		106 40
	12	" "	"		103 00
	13	" "	27		96 10
	17	" "	29		132 00
	19	" "	"		111 26
	22	" "	"		108 80
	24	" "	31		105 07
	26	" "	"		80 15
	28	" "	33		148 70
	29	" "	"		187 05
	30	" "	"		281 14
Nov.	2	" "	35		217 85
	6	" "	"		94 02
	9	" "	37		115 09
	11	" "	39		114 10
	14	" "	41		103 85
	19	" "	"		97 80
	25	" "	43		209 58
	27	" "	"		206 34
	30	" "	45		189 50
Dec.	1	" "	47		98 40
	3	" "	"		130 03
	7	" "	49		268 20
	8	" "	"		285 40
	"	" *W. King, European ac*	100		9 16
	"	" prem. on gold	"		3 21
	11	" cash	51		127 73
163					
Dec.	16	To cash	53	$105 08	
	19	" "	53	433 16	
	21	" "	53	200 50	
	24	" "	54	153 70	
	26	" "	55	148 50	
	31	" Ja's D. Sparkman	99	680 00	
	"	" cash	55	264 31	
	"	" interest	101	450 73	
1869.					
Jan.	4	" cash	59	114 91	
	6	" "	59	130 00	
	12	" "	61	130 00	
	16	" "	63	829 97	
	23	" "	65	2 8 00	
	26	" "	65	71 85	
	30	" "	67	201 73	
Feb.	6	" "	71	275 85	
	9	" "	"	630 39	
	12	" "	73	802 35	
	18	" "	75	137 08	
	27	" "	77	331 70	
Mch	6	" "	81	301 15	

No. 3—Continued.

13	" "	85	2,210 29		
22	" "	89	83 00		
27	" "	89	1 7 00		
31	" "	91	620 50		
April 3	" "	93	144 80		
17	" "	99	479 98		
24	" "	103	177 63		
27	" "	"	240 27		
30	" "	"	75 40		
May 4	" "	105	2,960 15		
8	" "	106	365 93		
15	" "	109	236 24		
22	" "	111	261 99		
29	" "	113	154 10		
June 5	" "	117	646 68		
12	" "	121	404 10		
19	" "	125	403 17		
25	" "	127	357 36		
26	" "	"	1,629 40		
30	" P. Mathew & Co	120	9 00		
"	" cash	129	174 15		
"	" interest	123	505 01		
"	" Phenix Ins. Co	124	17 50		
					$34,619 76

164

1868.	C'R.			
June 30	By interest	81	$91 81	
July 3	" cash	376	1,684 50	
1868.				
Dec. 31	" expense	104	1,250 00	
"	" Ja's D. Sparkman	105	10,561 19	
1869.				
Jan. 19	" Jno. L. Young	107	210 00	
May 1	" cash	104	1,221 10	
June 30	" Ja's K. Place	119	690 12	
"	" expense	124	625 00	
"	" balance		21,312 35	
				$34,619 76

1869.	D'R.			
June 30	To balance			$21,312 35

1869.	C'R.			
June 30	By J. D. Sparkman	125	3,089 03	
"	" " "	"	858 79	

J. E. LEARNED.

No. 4.

J. D. SPARKMAN.

1867.	D'R.			
Feb. 15	To cash	13	$37 00	
16	" "	15	21 15	
18	" "	"	7 00	
19	" "	17	172 10	
20	" bills payable	3	2,186 08	
21	" cash	17	36 24	
"	" "	19	88 00	
23	" "	"	356 44	

No. 4—Continued.

	25	" "	"	210 00
	"	" expense	4	5,077 95
	27	" cash	21	1,806 00
M'ch	4	" "	23	15 00
	5	" "	"	57 88
	"	" "	25	500 00
	8	" "	27	115 00
	9	" "	"	500 00
	"	" "	"	17 50
	"	" "	"	570 80
	"	" "	"	300 00
	13	" "	29	231 76
165				
M'ch	14	To cash	29	322 83
	"	" "	"	96 45
	16	" *cash*	31	250 00
	15	" " (as Jan. 10, '67)	"	30,000 00
	16	" "	33	66 00
	18	" "	"	125 50
	"	" "	"	600 00
	20	" "	"	195 83
	"	" "	"	1,000 00
	21	" "	"	10 00
	22	" "	"	488 40
	23	" "	"	25 75
	"	" "	35	8 40
	"	" "	"	152 34
	25	" "	"	684 00
	26	" "	37	19 08
	30	" "	39	165 00
	"	" "	"	29 00
	"	" *Ja's K. Place & Co., loans*	6*	5,800 00
April	1	" cash	41	2,749 00
	4	" "	"	197 10
	"	" "	43	917 93
	5	" *cash*	43*	821 50
	6	" cash	45	462 32
	11	" "	47	2,000 00
	"	" "	"	50 00
	12	" "	49	1,200 00
		" G. W. Hoxie & Co	7	12 00
	18	" cash	53	115 47
	"	" "	"	5,000 00
	20	" "	"	125 00
	"	" "	"	468 00
	24	" "	57	246 55
	27	" "	59	1 00
	"	" bills payable	8	2,000 00
May	1	" cash	65	56 72
	3	" "	67	749 70
	4	" "	"	25 00
	"	" "	"	290 51
	6	" "	69	1,200 00
	7	" "	"	178 75
	8	" "	71	125 00
	11	" "	75	200 00
	"	" "	"	56 70
	17	" "	79	50 00
	18	" "	81	1,000 00
		To bills payable	11	6,186 70
166				
May	21.	To cash	81	$126 61
	22.	" "	83	14 90

No. 4—Continued.

"	" "	"	301 91	
24	" "	85	257 06	
30	" "	87	204 10	
June 1	" Ja's T. Sparkman	17	30,000 00	
"	" balance	.....	93,166 80	
				$202,892 81
	C'R.			
1867.				
Jan. 19	By cash	2	$3,000 00	
Feb. 1	" "	6	3,000 00	
7	" "	8	5,000 00	
9	" "	10	2,000 00	
13	" "	12	8,000 00	
M'ch 9	*By cash*	26*	401 82	
16	" "	30*	419 68	
20	By cash	32	1,000 00	
"	m'd'se	5	7,828 52	
23	" cash	34	2,500 00	
26	*By cash*	36*	5,800 00	
30	" "	38	1,000 00	
April 2	" fixtures	7	758 00	
1	" cash	40	2,500 00	
27	" "	58	4,000 00	
May 2	" "	64	10,000 00	
30	" transfer to J. D. S., cash ac	102a	204 10	
June 1	" sundries	17	573 87	
1	" "	17	144,906 82	
				$202,892 81
	D'R.			
Nov. 8	To Mutual Life-Ins. Co	43	40,000 00	
"	" J. D S., mortgage ac	"	28,000 00	
15	" balance from J. D. S., cash ac	102	4,693 51	
18	" bills payable	45	20,473 37	
				$93,166 88
	C'R.			
June 1	By balance as cash this day	.....	$93,166 80	
Nov. 18	" profit and loss	45	08	
				$93,166 88
167				
	D'R.			
Dec. 31	To profit and loss	57	08	
16	" bal'ce as cash Nov. 16	.....	1,649 16	
				$1,649 24
	C'R.			
Dec. 31	By interest	57	$1,649 24	
				$1,649 24
1868.	D'R.			
April 1	To interest	76	$980 00	
Sept. 22	" cash	17	68 00	
Oct. 7	" "	25	41 67	
10	" "	25	10 00	
14	" "	27	3 00	
22	" "	29	25 00	
30	" "	33	37 50	
Nov. 2	" "	35	1,386 00	
9	" "	37	76 67	
13	" "	39	100 00	
27	" "	43	20 00	
Dec. 1	" "	47	41 66	
2	" "	"	68 00	
5	" "	"	30 25	
				$2,887 75

No. 4—Continued.

	C'R.			
Dec. 31	By bal'ce as cash Nov. 16	.....	$1,649 16	
"	" am't bro't down, (from loan acc't)	105	502 49	
"	" interest	101	56 10	
"	" Ja's T. Sparkman	99	680 00	
				$2,887 75
1868.	D'R.			
Dec. 31	To Ja's T. Sparkman	105	$10,561 19	
				$10,561 19
1868.	C'R.			
Dec. 31	By expense	104	$1,250 00	
"	" Ja's T. Sparkman, ex	105	1,821 25	
"	" balance	.....	7,489 94	
				$10,561 19
1868.	DR.			
Dec. 31	To balance	.....	$7,489 94	
168				
1869.				
June 11	To cash	121	$648 00	
30	" interest	123	196 30	
				$8,334 24
1869.	C'R.			
Jan. 11	By cash	58	$374 47	
1868.				
Dec. 31	" Ja's T. Sparkman, ex	108	1,559 42	
1869.				
June 3	" cash	116	648 00	
30	" expense	124	625 00	
"	" balance	.....	5,127 35	
				$8,334 24
1869.	D'R.			
June 30	To balance	.....	$5,127 35	
"	" J. T. Sparkman	125	3,089 03	
"	" " "	.....	858 79	

J. E. LEARNED.

SEDGWICK *vs.* PREBLE.

R. E. S., Examiner.

EXHIBIT 22.

Inventory under voluntary assignment.

STATE OF NEW YORK,
City and County of New York, ss:

I, Charles E. Loew, clerk of the said city and county, and clerk of the supreme court of said State for said county, do certify that I have compared the following with the original schedule of assets and liabilities of James K. Place and James D. Sparkman, on file in my office,
169 and that the same are correct transcripts therefrom, and of the whole of such originals.

In witness whereof I have hereunto subscribed my name and affixed my official seal this 24th day of Nov., 1868.

[SEAL.] CHARLES E. LOEW, *Clerk.*

IN THE MATTER OF THE GENERAL ASSIGNMENT of James K. Place and James D. Sparkman to Lewis W. Burritt, j'r; and Thomas T. Sheffield.

STATE OF NEW YORK,
City and County of New York, ss:

James K. Place and James D. Sparkman, of the city of New York, the assignors above named, being severally duly sworn, doth each for himself depose and say that the annexed inventories or schedules of the joint and several debts and liabilities of these deponents, and of the joint individual property, assets, and effects of these deponents, are in all respects just and true, according to the best of these deponents' knowledge and belief.

JA'S K. PLACE.
JA'S D. SPARKMAN.

Sworn before me this 13th day of January, 1868.

FRANCIS B. PERRIS,
Notary Public, N. Y. County.

Inventory or schedule of the joint creditors of said assignors, as composing the firm of James K. Place & Co.

	Names of creditors.	Residence.	Sum owing to each creditor.	The nature of each debt or demand.	Place where indebtedness arose.	The true cause and consideration of each debt.	Statement of any existing judgment, mortgage, collateral, or other security for the payment of any debts.
	Simon De Visser	N. Y. City	$3 03	In open account	Yokahama, Japan	For cash adv'c'd	None.
	Vanzandt Bro's	Rochester, N. Y	4 61	"	City of New York	Overpayment of a bill of merchandise sold.	None.
	E. Levering & Co	Baltimore, Md	7 71	"	"	"	None.
	Benjamin Berry	"	84 62	"	"	"	None.
	W'm M. Hoyt & Co	Chicago, Ill	188 70	"	"	"	None.
	W'm Heffernan	Louisville, Ky	229 19	"	"	For cash deposited, subject to drafts.	None.
	George Wells, j'r	City of N. Y	2, 500 00	"	"	For cash loaned on interest, to be paid on demand.	None.
171	Peter Schersten	N. Y. City	2, 550 00	"	"	"	None.
	Miller, Greiner & Co.	Buffalo, N. Y	4, 966 67	Check of James K. Place & Co.	"	"	For $2,968.63 of this amount they drew their draft dated Nov. 18, 1867, in favor of John M. Smith's Son & Co., for which draft a check of J. K. Place & Co., on the Manufacturers' National Bank of New York, was given, the payment of which was refused by the bank.
	John M. Smith's Son & Co.	N. Y. City	2, 968 69	On check	"	For draft of Miller, Greiner & Co.	None.
	Henry D. Van Orden	Brooklyn, N. Y	7, 500 00	In open account	"	For cash loaned on interest, to be paid on demand.	None.
	Alfred Arone	N. Y. City	165 00	"	"	For proceeds of sale of merchandise belonging to him.	None.
	Susan A. Place	"	9, 039 00	"	"	For cash loaned on interest, payable on demand, and moneys collected for her account.	None.
	Jane C. Place	"	53, 518 00	"	"	"	None.
	Robert Read	"	10, 361 24	"	"	For cash loaned on interest, payable on demand.	None.
172	O. W. F. Randolph	N. Y. City	66, 985 28	In open account	City of New York	For cash loaned on int., payable on demand.	None.
	Joseph L. Barker	Sing Sing, N. Y	24, 589 28	"	"	"	None.
	John Bertram	Salem, Mass	11, 524 52	"	"	For merchandise sold to assignors.	None.
	Heineman & Payson	N. Y. City	47, 509 95	"	"	"	None.

Henry Eyre	"	105 129 50	" and on promissory notes.	"	"	21 notes of J. K. Place & Co., each dated July 19, 1867, for $5,000 each, due Nov. 22d, 1867.
Weston & Gray	"	93, 042 18	In open account	"	"	None.
Manufacturers' National Bank.	"	72, 494 50	On notes of J. K. Place & Co.	"	For money loaned, and notes discounted.	$22,494.50 of this amount is the balance due on a loan of $25,000 made May 31, 1867, for which the bank holds the note of James K. Place & Co., endorsed by E. B. Place; the balance is in 10 notes of J. K. Place & Co., each for $5,000, payable 4 months after date; 2 dated July 25, 1867; 2 dated July 26, 1867; 2 dated July 27, 1867; 2 dated July 29, 1867; and 2 dated July 30, 1867.
173						
Ephraim B. Place	N. Y. City	150, 000 00	On notes of Ja's K. Place & Co.	City of New York	For assignment of his interest in the late firm of Place & Turlay, and his accommodation endorsement on notes of J. K. Place & Co., for which he has had to provide.	Note of Ja's K. Place & Co., for $30,000, dated Dec. 1, 1865, payable 5 years from date, given for his interest in the firm of Place & Turlay; 4 notes of Ja's K. Place & Co., endorsed by E. B. Place for their accommodation, and discounted by the Metropolitan National Bank, the payment of which has been provided for by the said E. B. Place, endorser; 2 notes for $2,500 each, dated Sept. 27, 1867, due 14th and 29th Dec., 1867; 1 for $50,000, dated Sept. 10, 1867, due Nov. 27th, 1867; 1 for $20,000, dated Oct. 4, 1867, due Dec. 21, 1867.
Butchers' & Drovers' Bank.	"	15, 000 00	On promissory notes.	N. Y. City	For notes discounted	Three notes of Ja's K. Place & Co., each for $5,000; 2 dated July 17, 1867, and 1 July 20, 1867, each payable 4 months after date, cashed by P. J. & A. Armour.
174 Newark Banking Co.	Newark, N. J	5, 000 00	On promissory note.	New York City	For notes discounted	One note of Ja's K. Place & Co., for $5,000, dated July 20, 1867, due Nov. 23, 1867, cashed by said P. J. & A. Armour.
H. Blydenburg	New York City	10, 000 00	"	"	"	Two notes of J. K. Place & Co., each for $5,000, and payable 4 months after date; 1 dated July 27, 1867, and the other August 23, 1867, cashed by said P. J. & A. Armour.
First National Bank	New Haven, Ct	20, 000 00	"	"	"	Four notes of Ja's K. Place & Co., each for $5,000, payable four months after date; 1 dated July 26, 1867; 2 dated July 27, 1867, which were cashed by P. J. & A. Armour, and 1 dated Sept. 3, 1867, cashed by J. F. Underhill.
Second National Bank	"	5, 000 00	"	"	"	One note of Ja's K. Place & Co., dated Aug. 24, 1867, due Dec. 27, 1867, cashed by P. J. & A. Armour.
175 Merchants' Bank	Norwich, Conn	5, 000 00	"	"	"	One note of Ja's K. Place & Co., dated Aug. 10, 1867, due Dec. 13, 1867, cashed by P. J. & A. Armour.
Merchants' Exchange National Bank.	New York City	5, 000 00	"	"	"	One note of Ja's K. Place & Co., dated Aug. 23, 1867, due Dec. 26, 1867, cashed by P. J. & A. Armour.

Inventory or schedule of the joint creditors of said assignors, as composing the firm of James K. Place & Co.—Continued.

Names of creditors.	Residence.	Sums owing to each creditor.	The nature of each debt or demand.	Place where indebtedness arose.	The true cause and consideration of each debt.	Statement of any existing judgment, mortgage, collateral, or other security for the payment of any debts.
American Exchange National Bank.	"	4,682 50	"	"	Note exchanged.....	One note of Ja's K. Place & Co., exchanged with the Place Sugar Refinery, dated Aug. 28, 1867, due Dec. 31, 1867.
Goodridge & Walker....	"	5,000 00	"	"	"	One note of Ja's K. Place & Co., exchanged with the Place Sugar Refinery, dated Aug. 28, 1867, due Dec. 31, 1867.
Spence, Montague & Co..	"	10,000 00	"	"	Note discounted	Two notes of Ja's K. Place & Co., each for $5,000, and payable 6 months after date, dated Aug. 23d and 24th, 1867, cashed by P. J. & A. Armour.
William Agnew & Son*..	"	5,000 00	"	"	"	One note of Ja's K. Place & Co., dated Aug. 7, 1867, due Dec. 10, 1867, cashed by P. J. & A. Armour.
Fourth National Bank*..	"	22,625 00	"	"	Goods purchased	5 notes of Ja's K. Place & Co., each payable 4 months after date; three for $4,500 each, one dated Sept. 7, 1867, and two Sept. 24, 1867; and two for $4,560 each, dated Sept. 7 and 16, 1867, given to the Place Sugar Refinery, and discounted by the Bank.
Atlantic Mutual Insurance Company.	New York City..	24,798 74	On promissory note.	New York City...	On premiums of insurance.	Nine notes of Ja's K. Place & Co., one dated Dec. 26, 1866, due Dec. 29, 1867, for $4,801.25; one dated June 7, 1867, due Dec. 27, 1867, for $2,063.75; one dated June 27, 1867, due Dec. 30, 1867, for $1,688.75; one dated Aug. 21, 1867, due Feb. 24, 1868, for $1,266.87; one dated Feb. 10, 1867, due March 13, 1868, for $2,345; one dated Oct. 22, 1867, due April 25, 1868, for $1,829.37; one dated June 21, 1867, due June 24, 1868 for $6,001.25; one dated June 29, 1867, due July 2, 1868, for $3,601.25; one dated July 30, 1867, due Aug. 2, 1868, for $1,201.25.
177 Place, Trigg & Co.	"	493 12	On open acc'nt..	"	Property rec'ed for them..	None.
John Caswell & Co	"	68,859 00	Promis'ry notes	"	Money loaned.....	Balance of a loan of $75,000 made Nov. 4, 1867, due Jan. 6, 1868, for which they hold in pledge, as security, 1,650 bags of coffee and 1,754 packages of tea.
Maitland, Phelps & Co*..	"	66,656 22	"	"	Money loaned	Bal'ce due on loan of $51,052.22, in gold, Oct. 10, 1867, due Dec. 9, 1867, for which they hold pledged, as security, 4,450 bags of coffee.
W. J. McCahan & Co.....	Philadelphia, Pa..	22 00	On open acc'nt..	"	Over paym't on a bill of merchandise sold them.	None.
Reed, Murdoch & Fisher	Chicago, Ill	112 67	"	"	Interest on an advanced payment on a bill of merchandise sold them.	None.

R. Ten Broeck & Thomas A. Silliman.	City of N. Y.....	1,000 00	"	"	For money loaned.....	None.
R. Ten Broeck	"	917 58	On promissory note.	"	"	Balance of note of Ja's K. Place & E. B. Place dated Sept. 13, 1862, for $2,050, the payment of which was assumed by Ja's K. Place & Co.
D. J. & Z. S. Ely & Co ...	"	3,361 73	On open acc'nt..	"	For overpayment on acc't of merchandise sold them.	None.
178 Bunge, Burlage & C.	New York City .	583 40	On open acc'nt..	New York City...	For merchandise purchased by assignors.	None.
A. S. Anderson.....	Buffalo, N. Y	32, 349 00	In open account and notes.	"	For money loaned	$6,000 of this amount was loaned to Ja's K. Place & Co., and is in open account, the balance is the principal and interest of 5 notes, each for $5,000, made by J. K. & E. B. Place, one dated Feb. 20, 1863, payable on demand; one dated March 18, 1863, payable on demand; one dated March 7, 1863, due M'ch 7, 1864; two dated March 4, 1863, due March 4, 1864, the payment of which was assumed by Ja's K. Place & Co.
Hackett & Henderson	New York City...	1 62	In open account	New York City ..	Brokerage for selling goods	None.
Warren, Beebe & C	"	2 85	"	"	"	None.
179 Carew & Haydon..	New York City...	3 18	In open account.	New York City...	For brokerage for selling goods.	None.
Joseph H. Wilson.....	"	3 34	"	"	"	None.
W. H. Blair	"	3 39	"	"	"	None.
J. Herm. Recknagle.....	"	3 80	"	"	"	None.
Edward & Holmes	"	3 82	"	"	"	None.
J. S. Barrett & Co.....	"	5 25	"	"	"	None.
Green & Wattles	"	4 80	"	"	"	None.
Benjamin Squires.....	"	6 98	"	"	"	None.
Young & Knapp.....	"	8 09	"	"	"	None.
Barcelo Vatable Bro's...	"	6 27	"	"	"	None.
Allin & McDonald.....	"	6 55	"	"	"	None.
G. W. Prichard	"	6 32	"	"	"	None.
W. H. Riley.....	"	7 92	"	"	"	None.
W. G. Ray & Co.....	"	12 23	"	"	"	None.
Morris & Sherman	"	13 60	"	"	"	None.
R. H. Leathem	"	12 54	"	"	"	None.
Pierson & Beebe.....	"	11 97	"	"	"	None.
Cleveland, Case & Co ...	"	38 98	"	"	"	None.
Foot & Lowe	"	17 00	"	"	"	None.
R. D. Case & Co.....	"	14 13	"	"	"	None.
John Bailey & Co	"	29 22	"	"	"	None.
Osborn & Bates	"	25 38	"	"	"	None.
J. & J. R. Montgomery...	"	61 62	"	"	"	None.
M. Canfield	"	23 78	"	"	"	None.
H. H. Lemcke.....	"	61 57	"	"	"	None.
Dymond & Lally	"	24 68	"	"	"	None.
Sheffield & Child	"	16 61	"	"	"	None.
A. G. Hildreth & Co.....	"	39 84	"	"	"	None.
H. W. Small & Co	Cincinnati, Ohio ..	17 31	"	Cincinnati, Ohio ..	"	None.

Inventory or schedule of the joint creditors of said assignors, as composing the firm of J. K. Place & Co.—Continued.

	Names of creditors.	Residence.	Sums owing to each creditor.	The nature of each debt or demand.	Places where indebtedness arose.	The true cause and consideration of each debt.	Statement of any existing judgment, mortgage, collateral, or other security for the payment of any debts.
180	Linton & Grieve	Philadelphia, Pa	45 85	In open account	Philadelphia, Penn	For brokerage for selling goods.	None.
	George S. Scott	Montreal, Can'a	186 56	"	Montreal, Canada	"	None.
	Otis W. Booth & Co*	New York City	135 59	"	New York City	"	None.
	Olendorf, Case & Co*	"	330 46	"	"	"	None.
	Abraham Wyckoff*	"	392 11	"	"	"	None.
	W'm Scott & Sons*	"	441 03	"	"	"	None.
	Thomas T. Sheffield*	Brooklyn, N. Y.	1,500 00	"	"	For 3 months for service as cl'k.	None.
	N. Y. Gas-light Co	New York City	35 95	"	"	For gas furnished.	None.
	Wetmore, Cryder & Co*	"	352 76	"	"	Storage of merchandise	None.
	Philip Livingston	"	165 74	"	"	"	None.
	E. Johnston & Co	"	63 00	"	"	"	None.
	Aymar & Co	"	61 76	"	"	"	None.
	Howland & Aspinwall	"	193 65	"	"	"	None.
	A. Leggett & Son	"	33 30	"	"	For goods p'rch'd	None.
	S. W. Roberts	"	28 00	"	"	For serv.ces ren'd	None.
	R. Parker	"	48 60	"	"	For ice furnished	None.
	Pine, Wright & Twigg*	"	219 15	"	"	For weig'ing merchandise	None.
181	Fountain & Churchill	"	164 37	"	"	For weigher's returns	None.
	Sackett & Mackay*	"	159 36	"	"	For stationery	None.
	W. F. Bryant	Boston, Mass	92 44	"	Boston, Mass	For storage of merchandise	None.
	Metropol t'n Nat. B'k*	New York City	22,585 57	On proms'y notes	New York City	Notes discount'd	The following notes were endors'd by Ja's K. Place & Co., and discounted for them, to wit: Keoff, Howell & Harvey, of Philadelphia, for $1,444.50, due June 8, 1868; Merritt & Ronaldson, of New York, for $2 707 65, due Jan. 15, 1868; Valk Bro's, New York, for $1,431,21, due Jan'y 13, 1868; Morale & Sanders, Baltimore, for $1,190.19, due Jan. 15, 1868; Morford & Co., of Detroit, for $2,449.80, due Jan'y 7, 1868; Moore & Hill, New York, for $3,128.38, due Jan. 24, 1868; Bulger & Co., New York, for $2,561 66, due Jan. 26, 1868; Moore, Jenkins & Co., New York, for $477.20, due Jan. 23, 1868; Reeve, Case & Co., New York, for $3,029.40, due Jan'y 27, 1868; Beard & Cummings, New York, for $1,915.72, due Jan 24, 1868; Morford & Co., of Detroit, for $2,449.82, due Feb. 7, 1868; all the above being business paper.
182	National B'k of Commerce.*	New York City	35,775 99	On proms'y notes	New York City	Notes discount'd	The following notes were endorsed by Ja's K. Place & Co., and discounted for them, to wit: Bentley, Burton & Co., New York, $4,000, due

183						Dec. 8, 1867; Carver, Wendover & Co., St Louis, for $6,900.50, due Dec. 31, 1867; W. J. Quan, Chicago, for $4,988.90, due Jan 3, 1868; Garbutt & Black, New York, for $2,921.25, due Jan. 16, 1868; Talbot, Winslow & Co., Cleveland, for $1,180.10, due Jan. 15, 1868; Garbutt & Black, New York, for $1,665.30, due Jan. 20, 1868; W. S. Johnson & Co., Buffalo, $537, due Jan. 28, 1868; Morford & Co., Detroit, for $954.13, due Jan. 14, 1868; three of Barritt, Cossit & Co., of Chicago: one for $1,530.26, due Jan. 12, 1868; one for $1 532.04, due Jan. 18, 1868; one for $1,537.98, due Feb. 7, 1868; Husted, Wetmore & Titus, New York, two notes each for $1,766.67, due 19 and 29 Feb., 1868; Reeve, Case & Co., New York, $2,485.35, due March 8, 1868; Brown, Ketchum & Co., Chicago, $2,109.65, due March 7, 1868; all of the above being business paper.
Bank of America	New York City	2,709 95	On prom's'y note	New York City	Note discounted	Note of A. A. Goold, New York, endorsed by Ja's K. Place & Co., and discounted for them for $2,709.95, due Dec. 13, 1867.
Daniel Trowbridge	"	1,347 64	"	"	Notes discount'd	Note of A. Etheridge & Co., of Rome, for $777.75, due Feb. 2, 1868; and of Frost, Taylor & Co., of Trenton, for $569.39, due Feb. 4, 1868, endorsed by Ja's K. Place & Co., and discounted for them.
William Morgan	"	491 71	"	"	Notes discount'd	For notes of Morford & Co., Detroit, for $491.71, due Feb. 17, 1868, endorsed by Ja's K. Place & Co., and discounted for them.
Nat'l Park Bank	"	28,623 34	"	"	Notes discount'd	The following notes were endorsed by Ja's K. Place & Co., and discounted for them, to wit: Shields & Boucher, Pittsburg, for $791.90 due Nov. 26, 1867; W. J. Quan, Chicago, for $3,200, due Dec. 24, 1867; J. W. Doane & Co., Chicago, for $2,234.95, due Jan. 19, 1868; Hanks & Porter, Cincinnati, for $2,305.09, due Jan. 15, 1868; Van Zandt Bro's, Rochester, for $711.00, due Jan. 30, 1868; Valk Bros., New York, for $2,685.24, due Jan. 29, 1868; Billings, Botes & Co., New York, for $709.29, due Jan. 30, 1868; Garbutt & Black, New York, for $789.36, due Jan. 27, 1868; Babcock & Co., New York, for $3,985.36, due Jan. 29, 1868; Stebbins & Porter, Denver, for $1,410.42, due Jan. 28, 1868; W. M. Hoyt & Co., Chicago, Ills., for $3,304.10, due Jan. 27, 1868; Valk Bro's, New York, for $1,486.33, due Feb. 2, 1868; Makerken & Brunjes, New York, for $677.36, due Feb. 8, 1868; A. A. Goold, New York, for $1,041.44, due Feb. 18, 1868; Meale & Saunders, Baltimore, $1,090.44, due Feb. 13, 1868; Jenkins & Co., Philadelphia, for 1,028.94, due Feb. 24, 1868; Moore, Jenkins & Co., New York, for $302.70, due Feb. 27, 1868; Sprague, Warner &
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Inventory or schedule of the joint creditors of the said assignors, as composing the firm of Ja's K. Place & Co.—Continued.

Names of creditors.	Residence.	Sums owing to each creditor.	The nature of each debt or demand.	Place where indebtedness arose.	The true cause and consideration of each debt.	Statement of any existing judgment, mortgage, collateral, or other security for the payment of any debts.
						Co., Chicago, for $1 468.42, due Feb. 12, 1868; all the above being business paper.
American Exchange National Bank	New York City...	12,921 95	On prom's'y notes	New York City..	For notes disc'd.....	The following notes were endorsed by Ja's K. Place & Co., and discounted for them, to wit: Two of the Place Sugar Refinery of New York, one for $5,000 and one for $4,862.50, both due Dec. 31, 1867, and one of Bulger & Co., of New York, for $3,059.45, due Jan. 2, 1868; all the above being business paper.
First National Bank....	New Haven, Ct..	17,121 70	"	"	For notes disc'd.....	The following notes were endorsed by J. K. Place & Co., and discounted for them, to wit: M. A. Hoppock & Co., New York, for $3,190.05, due Feb. 4, 1868; Reeve, Case & Co., New York, for $6,731.65, due Feb. 8, 1868; and three of J. Buffum & Co., of New York, each for $2,400, due 11th, 13th, and 15th of Feb'y, 1868; all the above being business paper.
186						
William Endall'...	New York City..	$13,804 07	On prom's'y notes	New York City...	For notes disc'd.....	The following notes were endorsed by Ja's K. Place & Co., and discounted for them, to wit: Bentley, Burton & Co., of New York, for $1,208.04, due Dec. 15, 1867; Judson & Dodd, Indianapolis, for $1,228.40, due January 20, 1868; Moore, Jenkins & Co., New York, for $762.55, due Jan. 30, 1868; Reeve, Case & Co., New York, for $3,113.64, due Jan. 30, 1868; A. A. Goold, New York, for $2,496.44, due Feb'y 22, 1868; Bentley, Burton & Co., New York, $5,000, due Dec., 1867; all the above being business paper.
187						
187						
Fourth Nat'l Bank.....	"	25,000 00	Promiss'y notes.		Endors'ts loaned.....	Two notes of Place Sugar Refiney endorsed by Ja's K. Place & Co. for the accommodation of the Place Sugar Refinery, and discounted for it, to wit: One of $15,000, due Nov. 28, 1867, and one of $10,000, due Dec. 28, 1867.
Manufact'rs Nat'l B'k..	"	20,000 00	"	"	Endors'ts loaned.....	Four notes of Place Sugar Refinery, endorsed by J. K. Place & Co. for its accommodation and discounted for it, each for $5,000; two due Dec. 24, 1867, and two due Dec. 15, 1867.
Spence, Montague & Co..	"	62,657 35	"	"	Endors'ts loaned.....	Twelve notes of Place Sugar Refinery, endorsed by Ja's K. Place & Co. for its accommodation, and discounted for its accommodation, and with which it purchased merchandise, as follows: One for $6,813.10, due Nov. 20, 1867; one for

							$5,844.25, due Nov. 27, 1867, and ten each for $5,000, due respectively Nov. 21, 1867; two Nov. 22, 1867; two Nov. 25, 1867; two Nov. 29, 1867, and one Dec. 5, 1867.
188	William F. Weld & Co.	Boston, Mass	Not known, cannot be ascertain'd.	Open account ...	Boston, Mass	For money paid.....	They paid duties on pepper purchased of them in bond by Ja's K. Place & Co., and are believed not to be repaid in full; the amount is to be adjusted.
	C. P. Fischer & Co	New York City...	$92, 450 17	On proms. notes	New Yo k City ..	For endorsem'ts loaned ..	Nine notes of the Place Sugar Refinery, endorsed by Ja's K. Place & Co., for its accommodation, and with which it purchased merchandise, as follows: one for $12,450.17, due Dec. 23, 1867; eight for $10,000 each, due respectively Dec. 3, 1867; Dec. 12, 1867; Dec. 15, 1867; Dec. 20, 1867; Dec. 26, 1867; Dec. 30, 1867; Jan. 3, 1868; Jan. 6, 1868.
	Thomas J. Owen'	"	70, 656 51	On prom's'y note	"	.....	Twelve notes of the Place Sugar Refinery, endorsed by Ja's K. Place & Co., for its accommodation, and with which it purchased merchandise as follows: $5,878, due Nov. 26, 1867; $5,878.81, due Nov. 28, 1867; $5,878.60, due Nov. 30, 1867; $5,878, due Dec. 2, 1867; $5,889, due Dec. 5, 1867; $5 890.9393, due Dec. 6, 1867; $5,895, due Dec'r 10, 1867; $5,890.94, due Dec. 12, 1867; $5,896.50, due Dec. 12, 1867; $5,889, due Dec. 13, 1867; $5,896.52, due Dec. 16, 1867; $5,895, due Dec. 18, 1867.
189	Metropolitan Nation'l Bank.*	New York City...	106, 182 14	On prom's'y note	New York City...	For endorsem'ts	Endorsements of 4 notes made by E. B. Place in payment of notes of Ja's K. Place & Co., endorsed by E. B. Pace for their accommodation, and hereinbefore set forth; said notes being retained as further security, to wit: $25 889.38, due June 7, 1868; $26,326.88, due Sept. 7, 1868; $26,764.38, due Dec'r 7, 1868; $27,401.88, due March 7, 1869.
	The Nat'l Park B'k*	"	16, 000 00	"	"	For endorsem'ts	Endorsement of 4 notes made by E. B. Place, in payment of notes of Ja's K. Place & Co., endorsed by E. B. Place for their accommodation, and hereinbefore set forth; said notes being retained as further security, to wit: each note for $4 000 and interest, and becoming due r s ectively June 21, 1868; Sept. 24, 1868; D.c. 24, 1868; and March 24, 1869.
190	Brown Brothers & Co.	New Y rk City ..	It cannot be stated or ascertained.	On spec al ag ement.	New York C ty..	Letter of credit.....	Brown Brothers & Co. is used to James K. Place & Co. two letters of credit, number L, 1,37, and No. L, 952, under the first of which bills of exchange were drawn by John Moore & Co., of Rio de Janeiro, for £15,321 9s. 1d. s'g, for the cost of 4,432 bags of coffee, purchased by James K. Place & Co., and imported by the ship Lenore. Of this coffee 1 018 bags have been taken possession of by Brown Brothers

Inventory or schedule of the joint creditors of said assignors, as composing the firm of James K. Place & Co.—Continued.

Names of creditors.	Residence.	Summowing to each creditor.	The nature of each debt or demand.	Place where indebtedness arose.	The true cause and consideration of each debt.	Statement of any existing judgment, mortgage, collateral, or other security for the payment of any debts.
						& Co., the rest having come into the possession of James K. Place & Co. And also bills of exchange for £1,146 9s. 4d. st'g, for the purchase of 361 bags of coffee, purchased by James K. Place & Co., imported by them by ship Bravo, the whole of which was taken possession of by Brown Brothers & Co. And also for bills of exchange for £3 508 2s. 0d. st'g, for the cost of 1,056 bags of coffee, purchased by James K. Place & Co., and imported by them per ship Georgina, and sold by them, the proceeds of which sale was received by Brown Brothers & Co. And under said second letter of credit for bills of exchange drawn by Behrr, Meyer & Co., of Singapore, for £1,222 15s. 1d. st'g, for cost of 539 mats of coffee, purchased and imported by James K. Place & Co., per ship Martha Rideout, which has not yet arrived, which coffee is being consigned to Brown Brothers & Co., for their security, and is insured in the Atlantic Mutual Insurance Company of the city of New York.
New York agency of the Bank of British North America.	New York City...	"	"	"	"	The New York agency of the Bank of British North America issued to Jas K. Place & Co. three letters of credit, No. N. Y. 1, No. N. Y. 17, and No. N. Y. 18, under the first of which bills of exchange were drawn by said John Moore & Co., of Rio de Janeiro, for £10,550 1rs. 6d. sterling, for the cost of 3,323 bags of coffee, purchased by James K. Place & Co., and imported by them per ship Bravo, the whole proceeds of the sale of which coffee was received by the said New York agency of said bank. For bills of exchange drawn under said second letter of credit for £19,258 3s. 9d. st'g, for the cost of 5,497 bags of coffee, purchased by James K. Place & Co., and imported by them per ship Fidelia, and consigned to said agency of said bank for their security; and the whole of which has been received by the said agency of said bank. On the 7th of September, 1867, under said second letter of credit, and on the 23d day of Sept., 1867, under said third letter of credit,

						Ja's K. Place & Co. gave an order to said John Moore & Co., of Rio de Janeiro, to purchase coffee on their account, to be paid for under said second and third letters of credit; but it is not known what coffee has been purchased or bills of exchange drawn by reason of said order (if any) is purchased; the same is consigned to the said agency of said bank for its security.
191	Duncan, Sherman & Co.	New York City				Duncan, Sherman & Co. issued to James K. Place & Co., on the 30th day of July, 1864, gave an order for the purchase of pepper, nutmegs, and mace, to be purchased by Lorain, Gillespie & Co., to be paid for by bills of exchange drawn under said first-mentioned letter of credit; it is not known whether any purchases have been made or bills drawn, but if they have the goods are consigned to Duncan, Sherman & Co., for their security. Under the second of such letters of credit, 4,677 bags of coffee were purchased by Ja's K. Place & Co., at Rio de Janeiro, and imported by them per ship Nautilus; to pay for which bills of exchange were drawn under said second letter of credit for £16,289 19s. 2d. sterling, but of which coffee 3,030 bags and the skimmings and sweepings have been taken possession of by the said Duncan, Sherman & Co. Also, under said second letter of credit, said James K. Place & Co. purchased at Rio de Janeiro 1,123 bags of coffee, imported per ship Bravo, to pay for which bills of exchange were drawn for £3,565 9s. 5d. sterling, the whole of which coffee has been taken possession of by said Duncan, Sherman & Co. Under the third of said letters of credit 4,044 bags of coffee were purchased at Rio de Janeiro by said Ja's K. Place & Co., imported by ship Georgina, to pay for which bills of exchange were drawn for £12,160 9s. 3d. sterling, the whole of which coffee was sold in the city of New York, and the whole proceeds of which sales received by said Duncan, Sherman & Co. And under said third letter of credit Ja's K. Place & Co. purchased at Rio de Janeiro 750 bags of coffee, imported per ship North America, to pay for which bill's of exchange were drawn for £2,585 5s. 9d. sterling, the whole of which coffee has been taken possession of by said Duncan, Sherman & Co.
	J. L. Phippe & Co					Residing in New York City; the sum due to him is not known and cannot be ascertained, but believed to be about $110,000, the nature of whose debt or demand is upon a credit at Rio de Janeiro, given in the city of New York, the

Inventory or schedule of the joint creditors of said assignors, as composing the firm of James K. Place & Co.—Continued.

Names of creditors.	Residence.	Sum owing to each creditor.	The nature of each debt or demand.	Place where indebtedness arose.	The true cause and consideration of each debt.	Statement of any existing judgment, mortgage, collateral, or other security for the payment of any debts.
						consideration of which debt is for bills of exchange. Ja's K. Place & Co., by order dated June 22d, 1867, purchased at Rio de Janeiro 4,500 bags of coffee, which were imported per ship Naiad, and to pay for which said J. L. Phipps & Co. gave or caused to be given an advance to the said Ja's K. Place & Co., bills of exchange for £15,555 2s. 5d. sterling, a part of which coffee has been taken possession of by J. L. Phipps & Co.
Dabney, Morgan & Co	Residing in New York;	the sum due to whom is not known and cannot be ascertained;	the nature of whose debt or demand is upon the letter of credit and bills of exchange drawn thereunder,	given in the city of New York,	the consideration of which debt is said letter of credit.	James K. Place & Co., under letter of credit No. 360, issued by J. S. Morgan and Co., of England, for and on account of Dabney, Morgan & Co., purchased at Shanghai, China, 3,183 packages of tea, now in course of importation per ship Americus, but not yet arrived, to pay for which bills of exchange were drawn for £17,786 3s. 1d. st'g. The tea is consigned to Dabney, Morgan & Co. for their security, and insured in the Atlantic Insurance Company.
192						On the 7th of November, 1867, Ja's K. Place & Co. gave an order for the purchase of coffee at Rio de Janeiro to be paid for by bills of exchange to be drawn under a letter of credit issued by Dabney, Morgan & Co., No. 992, for £15,000 st'g. It is not known whether any coffee had been purchased or bills of exchange issued, but if any has been purchased it is consigned to Dabney, Morgan & Co. for their security. James K. Place & Co., by order of the 29th June, 1867, directed the purchase of teas on their account at Foo Chow, China, to be paid for by bills of exchange, to be drawn under a letter of credit issued by Dabney, Morgan & Co., No. 865, for £15,000 st'g. It is not known if any tea has been purchased or bills of exchange issued under this order, but all such

Bunge, Burlage & Co						teas will be shipped to said Dabney, Morgan & Co. for their security. Residing in New York City; the sum due to whom is not known and cannot be ascertained; the nature of whose debt or demand is for money advanced to purchase merchandise. Said money being advanced on orders given in the city of New York, the consideration of which indebtedness is for said money advanced. James K. Place & Co. gave them an order April 25th, 1867, to purchase 6,000 piculs of Java coffee, which was purchased by them pursuant to said order at Batavia, in the island of Java, for and on account of Ja's K. Place & Co., and imported per ship Heniath, consigned to said Bunge, Burlage & Co. for their security, the cost of which is not known. Ja's K. Place & Co. also gave them an order on July 2d, 1867, to purchase for their account 6,000 piculs of Java coffee at Batavia, which has been purchased, the cost of which is not known and cannot be ascertained, but which coffee will be consigned to Bunge, Burlage & Co. for their security. Said James K. Place & Co. also gave them an order on the 2d of July, 1867, to purchase on their account 150 piculs of nutmegs and 50 piculs of mace; and also gave them an order on September 13th, 1867, to purchase on their account 250 piculs of nutmegs and from 5 to 6,000 piculs of Java coffee. It is not known that any purchases have been made under either of these orders, but if they have they will be consigned to Bunge, Burlage & Co. for their security.
Simon de Visser						Residing in the city of New York; the amount of whose debts not known and cannot be ascertained, and which arose in the city of New York under a letter of credit, and the consideration of which is said letter of credit. He issued a letter of credit to James K. Place & Co., No. D, 2 604, for £25,000 st'g, under which teas may be purchased by Gutschow & Co., of Yokohama, Japan, under an order for their purchase, given by Ja's K. Place & Co., June 1st, 1867, to pay for which bills of exchange may be drawn under said letter of credit. If any such teas are purchased they will be consigned to Simon de Visser for his security.

JA'S K. PLACE.
JA'S J. SPARKMAN.

193 *Individual debts and liabilities of James K. Place.*

Names of creditors.	Residence.	Sum owing to each creditor.	The nature of each debt or demand.	Place where indebtedness arose.	The true cause and consideration of each debt.	Statement of any existing judgment, mortgage, collateral or other security, for the payment of any debt.
Rufus Park	New York C'y	$2,326 00	Bond assumed	New York C'y	The purchase of land subject to a mortgage which was assumed.	Secured by the mortgage of John Mack, on 25 acres of land situated at Binghampton, Broome County, N. Y.
J. P. Giraud, jr., executor	"	41,400 00	Bond	"	The purchase of land	Secured by a mortgage on the premises Nos. 132 and 134 Front st., and Nos. 87 and 89 Pine st., New York City.
Jane C. Place	"	78,600 00	Bond	"	Money loaned	Secured by a mortgage on the premises Nos. 132 and 134 Front st., and Nos. 87 and 89 Pine st., New York City.
Jane C. Place	"	75,000 00	Bond	"	Money loaned	Secured by a mortgage on the Place Sugar Refinery on South and Front streets, between Gouverneur and Jackson streets, in the city of New York.
Susan A. Place	"	25,000 00	Bond	"	Money loaned	Secured by a mortgage on the Place Sugar Refinery on South and Front streets, between Gouverneur and Jackson streets, in the city of New York.
E. S. Roberts	"	5,600 00	Open account	"	Services as architect	None.

JAMES K. PLACE.

194 *Individual debts and liabilities of James D. Sparkman.*

Names of creditors.	Residence.	Sum owing to each creditor.	The nature of each debt or demand.	Place where indebtedness arose.	The true cause and consideration of each debt.	Statement of any existing judgment, mortgage, collateral or other security, for the payment of any debt.
Corbett & Schenck	New York C'y	$140 50	In open account	New York C'y	Carriage repairing	None.
A. McGoldrick	"	28 00	"	"	Blacksmith's work	None.
Robert Watts	"	2,000 00	"	"	Physician's services	None.
C. Otto Ficht	"	475 00	"	"	Painting	None.
Johnson & Rozell	"	101 28	"	"	Feed sold	None.
John Derhmes	"	84 75	"	"	For plastering	None.
J. G. Blaney	"	95 75	"	"	Repairing harness	None.
W. W. Sawyer	"	525 75	"	"	For sails furnished	None.
J. P. Smith	"	28 13	"	"	For mason-work	None.
The Place Sugar Ref'ry	"	37 67	"	"	Sugar purchased	None.
James Lennox	"	500 00	"	"	Carpenter's work	None.

P. Puels	"	224 75	"	"	Upholsterer's work	
John McComack	"	200 00	"	"	Carpenter's work	
John W. Buckmaster	Br'klyn, N. Y.	1,500 00	"	Br'klyn, N. Y.	For money loaned	
N. E. H. Wade	New York C'y	1,050 00	"	New York C'y	"	None.
Manufac. National B'k	"	927 00	"	"	"	None.
Place & Seaman	"	68 61	"	"	For goods purchased	None.
Wood Brothers	"	309 12	"	"	Carriage repairing	None.
Benjamin Lord	"	135 00	"	"	Dental work	None.
E. L. Janes	Br'klyn, N. Y.	3,000 00	"	Br'klyn, N. Y.	Money loaned	None.
W'm Morgan, guardian	"	4,000 00	Bond	New York C'y	"	Secured by a mortgage on leasehold premises on the south side of 43d street, between 5th and 6th avenues, New York City.
A. C. Lee	Saratoga Sp's	2,500 00	In open account	"	"	None.
195 Mutual Life Insurance Company of New York.	N. Y. City	$40,000 00	Bond	N. Y. City	Money loaned	Secured by a mortgage on the premises corner of Rutgers Place and Jefferson st., N. Y. City.
Taylor and Young	"	10,464 75	In open account	"	"	None.
Williamsb'g Sav. Bank	Br'klyn, N. Y.	5,000 00	Bond	Br'k'yn, N. Y.	"	Secured by a mortgage on land on Clove Road, Brooklyn.
James Lenox	N. Y. City	18,000 00	Bond	N. Y. City	"	Secured by a mortgage on premises 209 Pearl st., New York.
S't Paul's Methodist Episcopal Mis. Church.	"	100 00	In open account	"	For subscription	None.
Stephen Philbin	"	21 57	"	"	For plumbing work	None.
John Shuster	Br'klyn, N. Y.	17 00	"	Br'klyn, N. Y.	Repairing tiling	None.
Baker, Smith & Co	N. Y. City	21 38	"	N. Y. City	Repairing furnace	None.
Fourth National Bank	"	15,000 00	Notes	"	For endorsement of notes of Taylor & Young, for their accommodation.	None.
Manufac. Nat. Bank	"	52,900 00	Notes	"	For endorsements of Taylor & Young for $7,500; Sparkman, Place & King for $40,000; and Sparkman & Co., of Philadelphia, for $5,400 for their accommodation.	None.
James M. Waterbury	Br'klyn, N. Y.	3,000 00	Bond	Br'klyn, N. Y.	Money loaned	Secured by a mortgage on premises foot of Rush street, in the city of Brooklyn.

JA'S D. SPARKMAN.

196 *Inventory of schedule of stock of goods, James K. Place & Co., Dec. 27, 1867.*

		Price.	Duty.	Gross amount.
	60 bags Rio coffee, ex S't Ursula, 9,553, 96, 9,457	$ 13		$1,229 41
	60 bags in bond, 8,532		$126 60	
478	" Rio coffee, ex Talisman, 76,662, 767, 75,895	13		9,866 35
	436 bags in bond, 73,791		3,689 55	
503	" Rio coffee, ex Star of Denver, 796, 76,796, 78,880	13		10,254 40
	415 bags in bond, 59,336		2,966 80	
379	" Rio coffee, ex Acme, 60,034, 600, 59,534	12¼		7,280 66
	388 bags in bond, 21,975		1,098 75	
	840 packages Mocha coffee in Salem, 33,273, 2,399, 30,874	25		7,718 50
	106 packages Mocha coffee in New York, 5,001, 335, 4,666			1,166 50
	925 p'k'g's in bond, 35,072		1,753 60	
	1 mat Singapore Java coffee, 39	20		7 80
	2 bags Java skinnings, 219, 2, 217	12		26 04
	4 bags Java skinnings, M., 435, 4,431	10		43 10
	1 bag Rio sweepings, ex Svaners, 80, 3, 77	5		3 85
	1 bag Rio store sweepings, 95, 3, 92	5		4 60
	1 bag Rio sample coffee, 155, 2,153	5		7 65
	9 bags odds and ends, 550 lbs	5		27 50
	68 half-chests Souchong, in ex Challenger, 4-6, 4,979,1, 020, 3,559,	85		3,025 15
	65 in bond, 3,663		915 75	
	6 chests Japan Quick, No. 4, 381, 102, 279	52		145 08
	10 half-chests Japan Quick, No. 5, 622, 160, 462	50		231 00
	8 half-chests Japan Quick, No. 7, 550, 136, 414	52		215 28
	19 half-chests Japan Quick, No. 8, 1,272, 323, 949	50		474 40
197	498 bags African ginger ex Rescue, 55,150, 1,103, 54,047	10		$5,404 70
	498 bags in bond, 55,496		$2,774 80	
	3 cases nutmegs, ex Geo. Canning, 227 lb. net	90		204 30
	3 cases in bond, 288¼ lb		144 95	
	398 bags Singapore pepper, ex Geo. Canning, 38,327, 766, 37,561	22		8,263 42
	278 bags in bond, 27,143		4,071 75	
80	" " " ex Alexander, 7,893, 158, 7,735, in bond	6¼		483 43
4	" Sumatra, 640, 13, 627	22		137 94
	30 bags Race ginger, ex Ashburton, 2,402, 48, 2,354	10		235 40
5	" cassia, 354, 10, 344	10		34 40
16	" spice dust, 1,751, 16, 1,735	5		86 75
12	" skimmings, 1,478, 12, 1,466	4		58 64
8	" pepper dust, 805, 8, 797	4		31 88
17	" mats Java coffee, 1,149, 11, 1,138	21		238 98
	1 half-chest Johann mam., No. 77, 55, 15, 40	60		24 00
	57 in bond, 6,081		1,520 25	
	Broadwater, 97 in bond, 6,360		1,590 00	
	61 half-chest Oolong, ex Kate Carnie, 36, 8, 3 459, 854, 2,605	55		1,432 75
	3 half-chest Hyson, Grasmere, No. 66, 246, 84, 162	80		129 60
	7 half-chest Imp'l, ex Horatio, No. 67, 512, 105, 407	50		203 50
	20 cases gunpowder (E) 1,780	35		623 00
	2 boxes " 8	1 00		8 00
	4 lbs. Japan ex —— No. 1,003, 72	67		48 24
	2 half-chest Japan, No. 127, 110, 30, 80	56		44 80
	5 half-chest Japan, No. 134, 6, 274, 75, 199	56		111 44
	1 half-chest Japan, No. 143, 53, 13, 40	56		22 40
198	2 half-chest Japan, No. 48, 53, 106, 30, 76	60		45 60
	1 half-chest Oolong, ex Amaranth, No. 30, 59, 15, 44	40		17 60
	1 half-chest Oolong, ex Constantine, No. 191, 55, 15, 40	40		16 00
	1 half-chest Souchong Qui., ex Amaranth, No. 2, 59, 14, 45	40		18 00
	1 half-chest Japan, ex Benefactor, No. 18, 50, 13, 37	56		20 72
		Currency.		
	1850 heavy linen bags @ 27	$499 50		
	225 light " " @ 20c	45 00		
	1 half-chest gunpowder, ex Lota, No. 60, 78, 17, 61	80		32 60
	1 half-chest Japan, ex Lorton, No. 61, 52, 15, 37	60		22 20
	1 half-chest imperial, ex J. N. Cushing, No. W. H. W. No. 4, 40, 16, 24	70		16 50
	7 half-chest imperial, ex J. N. Cushing, A. A. F. & B. No. 454, 112, 342, T	50		171 50
	1 half-chest Hyson Borealis, No. 220, 73, 27, 46	80		36 80
	10 half-chests Y. Hyson, No. 215, 880, 250, 630	90		567 60
	1 half-chest Y. Hyson, No. 216, 89, 25, 63	90		57 60
	2 half-chest Imperial, No. 213, 158, 48, 110	90		99 00
	1 half-chest gunpowder, No. 77, 68, 16, 52	80		41 60
	1 half-chest Young Hyson, No. 219, 73, 17, 56	50		28 00
	1 half-chest Young Hyson, No. 229, 69, 15, 54	70		37 80
	2 half-chest Imperial, No. 236, 140, 32, 108	60		64 80
	1 half-chest Young Hyson, No. 240, 84, 16, 68	50		34 00
	3 boxes sample tea, 249	40		99 60
	1 half-chest Hyson, Borealis, No. 245, 69, 25, 44	55		24 20
	2050 empty Rio " @ 10c	205 00		
199	40 empty gunny bags, 20c	8 00		
	200 " pepper sto. bags, @ 8c	16 00		
	250 empty pepper Sd. @ 15c	37 50		
500	" Lagume, @ 15c	75 00		

Inventory of schedule of stock of goods, James K. Place & Co., &c.—Continued.

		Price.	Duty.	Gross amount.
200	" Maricolo, @ 10c	20 00		
1500	" Java mats, @ 10c	150 00		
742	" " " no value			
	2 Dormant scales	90 00	180 00	
	3 portable	6 50	19 50	
	2 2-wheel trucks	3 00	6 00	
	3 4 "	11 00	33 00	
	2 sugar mills	20 00	40 00	
	2 fanning mills	10 00	20 00	
	Slings, crow-bars, shovels, &c		30 00	
	Thomas tools		200 00	
Sales-room.	2 sitting desks		10 00	
	1 table		2 00	
	1 upright desk		5 00	
	849 bags African ginger, ex Ann Elizabeth, 82,905, 1,658, 81,947 in bond		4½	3,656 11
	100 bags ex Rescue		10	3,042 20
	174 barrels, 30,422 lbs			
	In bond, 31,267		1,563 35	
	150 bags Race ginger, ex Gunnell, 11,819, 450, 11,369 in bond	4		456 76
	392 bags Race ginger, ex Lord Palmerston, 41,066, 521, 40,245	9½		3,823 27
	278 pockets Race ginger, Ann Royston, 5,700, 250, 5,450	9½		517 75
2403	pockets ex Childurcksbury, 45,754, 2,163, 43,591	9½		4,141 14
	Robin Hood in bond, 43 lbs		10 75	
	Refund duty on coffee, ex Express			107 60
	Refund duty on coffee, ex Delphine			339 80
	Refund duty on tea, ex Albatross			750 75
	Refund duty on tea, ex Thos. Dryden			100 00
200	Refund duty on tea, ex Endeavor			$500 00
	1 bbl. for samples	25		
	2 chairs	1 00		
	1 stool	50		
	2 tea-kettles	5 00		
	1 revolving tea-table	8 00		
	" " 4th story	8 00		
	1 tea rack with drawers	10 00		
	1 " " up stairs	10 00		
	2 small tea scales	4 00		
	Cups, spoons, tea cans	5 00		
	3 iron safes	300 00		
	6 counting-room desks	75 00		
	2 book-racks and drawers	25 00		
	1 small upright desk	3 00		
	1 desk and case for letters	3 00		
	1 letter-press and stand	10 00		
	1 mahogany-case stand	15 00		
	5 desk stools	2 00		
	1 sitting desk	25 00		
	1 " " up stairs	25 00		
	1 wardrobe	25 00		
	1 " up stairs, 3d story	25 00		
	Ps. carpet	5 00		
	2 looking glasses	2 00		
	1 Chinese junk in case	10 00		
	Oil-cloth and carpet, (room)	10 00		
	" piece	5 00		
	Coffee drawers, salesroom	75 00		
	" " small room	25 00		
	Elevator, engine, boilers	250 00		
		$4,818 25		
	Reduced to gold @ 1.40			3,441 61
			$22,525 90	$81,897 05
	Deduct elevator, engine and boiler, $2,500 currency, equal (to being included as a part of the store 132 and 134 Front street,			1,785 71
			$22,525 90	$80,111 34
	Less duty to be paid on goods remaining in bond			22,525 90
				$57,585 44

201 **The following property is pledged to John Caswell & Co., for a loan of $75,000 currency, of 4th November, 1867:**

	Price.	Duty.	Gross amount.
1650 bags Rio coffee, ex Acme, 261,360 lbs	12¼		$32,016 60
1,650 bags in bond, 264,000		$13,209 00	
142 half-chests Japan Tea Co., Glenchune 100/100 7,143, 1,546, 5,997	57		3,019 29
1 half-chest Japan Tea Co., Glenchune, Nos. 102/14 52, 14, 38	55		20 80
216 half-chests Japan Tea Co., Glenchune, Nos. 129/33, 11,097, 2,592, 8,505	63		5,358 15
121 half-chests Japan Tea Co., Glenchune, Nos. 13/46, 6,212, 1,573, 4,639	70		3,247 30
133 half-chests Japan Tea Co., Glenchune, Nos. 137/42 7,095, 2,128, 4,967	57		2,831 19
221 half-chests Japan Tea Co., Glenchune, Nos. 14/36, 11,940, 2,873, 8,067	58		5,258 86
823 h'f-chests in bond, 29,371		7,342 75	
22 half-chests gunpowder, Borealis, Nos. 224, 2,087, 352, 1,735	89		1,544 15
3 half-chests Imperial, Nos. 225, 230, 51, 119	80		143 20
73 half-chests Young Hyson, Nos. 226/7, 6,333, 1,168, 5,165	82		4,235 30
			57,585 44
Less goods sold and deliv'd from 20th to 25th Nov:			
2 half-chests tea, Kate Kaine, 35, 40, 75	55	41 25	
4½ bales Mocha coffee, 146	25	36 50	
31-16 " " " 54	54	13 50	
1½ " " " 75	25	18 76	
4 bags Rio coffee, ex Talisman, 635	13	82 52	
202 10 bags Rio coffee, ex Acme, 1,469	12¼	179 95	
1 " sample, 50	5	2 50	
3 bags Singapore pepper, 302	22	66 44	
36 " Rio coffee, ex Talisman, 5,786	13	752 18	
8 lbs. tea, 8	1 00	8 00	
30 bags Race ginger, ex Ashburton, 2,354	10	235 40	
			1,437 02
			$56,148 42
26 half-chests Imperial tea, No. 37, 2,013, 416, 1,597	90		1,447 30
52 half-chests Young Hyson, No. 4¼, 3,558, 750, 2,778	80		2,222 40
51 half-chests Hyson, No. 45/6, 3,170, 765, 2,405	75		1,803 75
166 in bond, 9,563		2,390 75	
19 half-chests Imperial tea, ex Tycoon, No. 15, 1,147, 266, 881	90		792 90
46 half-chests Young Hyson, No. 20/21, 3,237, 640, 2,593	80		2,074 00
61 in bond, 4,123		1,030 75	
47 half-chests Young Hyson, ex Resolute, No. 72/4, 4,025, 752, 3,273	85		2,782 05
20 half-chests G. powder, ex Fengal, No. 30, 1,519, 300, 1,219	70		853 30
30 half-chests Imperial, No. 31, 2,186, 720, 1,466	80		1,172 80
22 half-chests Imperial, No. 32, 1,536, 330, 12,036	70		844 20
91 half-chests Young Hyson, No. 37/9, 7,371, 1,365, 6,006	53		3,183 18
32 half-chests Twankey, No. 44, 2,014, 522, 1,502	50		751 00
2 in bond, 315@100/0		86 62	
12 half-chests Imperial, No. 87, 668, 156, 512	50		256 00
203 45 half-chests Young Hyson, Nos. 228, 3,231, 720, 2,511	58		$1,456 38
25 half-chests Young Hyson, Nos. 229, 1,714, 375, 1,339	46		615 74

	Price.	Duty.	Gross amount.
42 half-chests Hyson, Nos. 230, 2,817, 630, 2, 187	67		1,465 29
17 half-chests Hyson, Nos. 231, 1,047, 289, 758	53		401 74
22 half-chests Twankay, Nos. 232, 1,388, 374, 1,014	40		405 00
3 half-chests G. powder, Nos. 234, 182, 42, 140	70		98 00
1 half-chest G. powder, Nos. 233, 87, 26, 61	80		58 80
2 half-chests Imperial, Nos. 238, 157, 50, 107	70		74 90
128 bond, 3,608		902 00	
199 half-chests Souchong, ex Sam'l Russell, 11717, 11,565, 2,587, 8,978	50		4,488 00
187 in bond, 10,277		2,569 25	
128 half-chests Oolong, ex Queenland, 4416, 7,927, 1,792, 6,135	45		2,760 75
107 in bond		1,345 25	
32 half-chests G. powder tea, ex Tycoon, No. 35, 1,723, 308, 1,415	1 00		1,415 60
23 half-chests G. powder tea, ex Tycoon, No. 36, 1,527, 345, 1,182	80		945 60
1 half chest Young Hyson, No. 61, 46, 15, 61	50		30 50
1 half-chest Young Hyson, No. 62, 60, 16, 44	50		22 00
1 half-chest Young Hyson, No. 66, 65, 13, 52	50		26 00
1 half-chest Imperial, No. 70, 69, 15, 54	50		27 00
204 1 half-chest Imperial, No. 89, 58, 13, 45	50		$22 50
		$28, 867 37	$90, 153 22
Less duty to be paid on goods remaining in bond			24, 867 37
			$61, 385 85

The following property is pledged to Maitland, Phelps, & Co., for a loan of $51,052.22, gold, 10th Oct:

	Price.	Duty.	Gross amount.
561 bags Rio coffee, ex Star of Devon, 89,760	13		11,668 80
561 bags in bond, 89,760		4,488 00	
[692 bags Rio coffee, ex Preciosa, 111, 647, 1,116, 110, 581	14		15,474 34
684 bags in bond, 109,460		5,473 00	
565 bags Rio coffee, ex Nouva Jornia, 90,530, 905, 89,625	11¼		10,306 87
550 bags in bond, 89,252		4,462 60	
84 bags Rio coffee, ex Tarmo, 12,884, 229, 12,755	13		1,658 15
1167 bags Rio coffee, ex E. Schmidt, 186,403, 1,574, 185,329	14		25,974 06
1,180 bags in bond, 174,184		8,709 20	
480 bags Rio coffee, ex Palma, 75,394, 754, 74,640	11		8,210 40
481 bags in bond, 60,679		3,033 95	
H. E. 76,790, 768, 76,022	11½		11,023 19
451 bags in bond, 87,891		4,394 55	
419 bags Rio coffee, ex Delphine, 65,596, 656, 64,900	12		7,792 80
450 bags in bond, 69,720		3,486 40	
Bags in bond, ex Tamno, 84 bags in bond, 13,346		667 30	
		34,715 00	92,108 61
Less duty to be paid on goods remaining in bond			34,715 00
			57,393 61

205 *Debts due and owing to the firm of J. K. Place & Co.*

Name.	Residence.	Gold.	Amount.
Squires, Sherry & Gulusha	Troy, N. Y.		$792 28
Geo. C. Cook & Co.	Chicago, Ill		173 10
Moore, Foote & Co.	Detroit, Mich		1,929 06
Geo. W. Flanders & Co.	Chicago, Ill		874 31
O. C. Hatch & Co	New York		3,791 00
M'r's H. Barker	"		63 98
S. M. Cushman	"		25 30
John B. Keyes	"		20 16
Martin Gillet	"		388 22
A. Etheridge & Co	Rome, N. Y		162 24
Moore & Cole	Rochester, N. Y		38 80
C. A. Lawton	New York		230 00
M'r's Dorothy Place	"		450 58
Ja's K. Place, (in trust,) L. Frost & Co	Nebraska City, Neb		172 24
L. Frost & Co	" "		5,000 00
Gibson, Early & Co	Cincinnati, Ohio		2,471 91
J. W. Fitts & Co.	Baltimore, Ind.		1,092 61
Cha's Stoughton	New York		200 00
N. Sherwood	"		531 94
J. Gould & Son	"		1,907 44
A. D. Grieff	"		12 67
Forbes Bro. & White	St Louis, Mo		1,217 95
Carr, Chase & Raymond	Boston, Mass	12,416 17	
H. W. Hubbell	New York	138 03	
Sturges, Arnold & Co	"	1,447 99	
Ja's Cassidy & Co.	"	548 42	
Geo. F. Gilman	"	28 89	15,342 33
John Watson	"		10,917 61
Moore & Hill	"		331 21
J. Y. Kelly & Co	"	557 38	86 21
John Mann	New Albany, Ind.		1,665 55
W. J. Quan	Chicago, Ill		592 38
Smith & Ellis	Marshall, Mich.		360 67
Corbin, May & Jones.	Chicago, Ill		615 80
Geo. W. King & Co	" "		502 80
John Lernisimer & Co	Quebec, C. W.	1,870 00	
Fitts, Austin & Turner	New York		407 10
W. M. Perry	"		34 20
Real estate, J. K. P., in trust.	Milwaukee, Wis		556 82
John Dinklee	Boston, Mass		457 04
A. G. Sherman	New York		65 00
Place & Prichard	"		1,000 00
C. H. Denison	"		425 00
G. C. Van Usla	"		445 00
206 C. C. Parks	New York		$131 25
J. Benedict	"		600 00
G. L. Prentiss	"		50 00
Grom Brothers & Co	"		1,207 71
Sackett, Belcher & Co.	"		8,104 25
M. A. Van Benschoten	"		979 41
M. C. Van Benschoten	"		1,000 00
Williams, Loring & Kaas.	Chicago, Ill		1,333 77
S. Van Benschoten & Co	New York		14,887 76
R. Blakely & Co.	New Orleans, La		1,576 76
John A. Cooper & Co.	New York		2,800 00
Lynch, Fling & Drew	Portland, Maine		487 14
Cha's Gutschow & Co	Shanghai, China	20,693 51	
Gutschow & Co	Yokohama, Japan	33,047 14	
Brown, Brother & Co	New York		345 40
Humboldt Insurance Co	"		1,200 00
Metropolitan National Bank	"		6,000 00
Atlantic Mutual Insurance Co. scrip, 1865, 1866, 1867	"		2,580 00

Debts due and owing to the firm of J. K. Place & Co.—Continued.

Name.	Residence.	Gold.	Amount.
Neise, Knoblauch & Co.	"		177 74
Henry Baldwin	"		162 00
Joel White	"		165 00
James Dickie	"		79 00
James M. Moore	"		1,000 00
Galbraith Stewart	Memphis, Tenn		2,025 25
Galbraith Stewart	" "		2,073 15
Woodward & Garesche	S't Louis, Mo		1,330 94
Brinkerhoff & Mills	New York		1,923 32
Sparkman, Place & King	"		10,000 00
Sparkman, Place & King	"		10,000 00
Sparkman, Place & King	"		10,000 00
Sparkman, Place & King	"		10,000 00
Sparkman, Place & King	"		10,000 00
Sparkman, Place & King	"		12,039 24
Davenport & Son	"		815 00
Moore, Jenkins & Co	"		226 98
Moore, Jenkins & Co	"		563 85
Lawton & Co	"		1,792 81
Lawton & Co	"		1,792 80
Lawton & Co	"		1,792 80
Place Sugar Refinery	"		120,000 00

What said debts are due for respectively.

	Value.
Bill merchandise sold 20 Nov'r, 1867, tea	$792 28
" " 17 Oct., " coffee	173 10
" " 20 Nov., " tea	1,929 06
" " 2 Oct., " coffee	700 00
207 Balance due on loan 20 Nov., 1866, and int. to 20 Nov., 1867	$575 00
Cash adv'd for taxes and 2,000 U. S. 7.30's and int. to 20 Nov., 1867	3,791 00
Bill merchandise sold 4 and 16 Oct. sundries	63 98
" " 22 Oct., tea	25 30
" " 11 " tea	20 16
" " 8 Nov'r, sundries	388 32
" " 8 " "	162 24
" " 9 tea	Nothing.
Cash advanced	230 00
" " on acc	450 58
Bal. due open acc. to Nov., 1867	172 24
Special capital adv'd 1st July, 1864	3,000 00
Bal. due on coffee sold for ac. J. K. Place & Co	2,471 91
Bill merchandise (tea) sold Nov. 9 and 16, 1867	1,092 61
Bal. due on bill (tea) 12 Nov., 1867	200 00
Bill merchandise (tea) sold 8 Nov., 1867	531 94
" " 6, 18, & 8 Nov., 1867	1,907 44
Bal. due on bill 14 Oct., coffee	12 67
Bill merchandise, tea, 30 Oct., 1867	1,217 95
" " tea, 17 Sept., 1867	1,660 00
" " coffee, 24 " "	100 00
Bal. on bill coffee, 28 June, 1867	1,500 00
Bill merchandise, tea, 23 Nov., 1867	730 00
" " coffee, 23 Nov., 1867, and tea Nov. 9, 1867	15,450 00
" " tea, bal. due sold 28 and 9 Nov., 1867	10,917 61
" " coffee sold 25 Nov., 1867	331 21
" " " 11 and 15 Nov., 1867	830 00
" " " 9 "	1,665 55
" " " 7, and bal. bill 22 Oct	592 38
" " sundries, 9 Sept. "	340 67
" " coffee, 9 Nov. "	615 80
Bal. due on bill tea, 27 Sept	502 80
" " tea and molasses sold 1867	2,560 00

Bill merchandise, coffee, 5 Nov	407 10
" " tea, 22 Oct	34 20
Advances, taxes, &c., on real estate, Milwaukee	556 82
Bill merchandise, tea sold 20 Nov'r	457 04
Bal. bill sundries sold 21 Jan'y, 1867	Nothing.
Cash loaned 8 Feb'y, 1866	100 00
" " "	100 00
Cash advanced, 1867	445 00
Note due 1 Feb'y, 1868	131 25
Bal. due on loan, July 16, 1867	600 00
208 Loan July 21, 1866	Nothing.
Bal. of acc. for teas sold 1866, including interest 31st Dec'r, 1866	$100 00
Merchandise sold in 1866, including interest to *to* 31 Dec., 1866	500 00
Merchandise sold in 1867	100 00
" " Sept. 5, 1867	500 00
Cash loaned Dec. 15, 1866, and $1,500 m'ch'd'se	500 00
Dec. 31, 1866, $419.63, less $585.86 p'd 7 Nov., their notes due 19 Oct., 1867, 19 April, 1867, 19 Oct., 1867, and interest	2,800 00
Bal. bill coffee, 30 April, 1867	100 00
Bill tea sold 1867	2,500 00
" " 18 and 19 Oct., 1867	487 14
	4,138 00
	6,609 00
Int. on currency deposited as collateral for loan sterling	345 40
12 shares stock, each $100	980 00
60 " " $100	7,500 00
	2,000 00
Bill pepper sold 12 Nov	177 74
Cash loaned 1866	150 00
" "	100 00
" 1867	50 00
Note due 1 May, 1868, $500—1st Nov., $500	1,000 00
Note due 11 Jan'y, 1868	2,025 25
" 10 Feb'y, "	2,073 15
" 8 Jan., "	1,300 00
" 18 Feb., "	1,900 00
Note payable 12 mo. from Oct. 1, 1867, with int	1,000 00
" " " 18, "	10,000 00
" " " 21, "	10,000 00
" " " 29, "	10,000 00
" " " Nov. 8, "	10,000 00
" " " 18, "	12,039 24
Cash loaned them 1867	815 00
Note due 21 Jan'y, 1868	226 98
" 12 Mar., "	563 85
" 21 Feb., "	360 00
" 26 " "	360 00
" 2 March, "	360 00
In open account for money and notes loaned, and endorsements and commissions	50,000 00
	$213,155 96

209 **The following debts due to James K. Place & Co. accrued for sales of coffee imported per ship Leonore on letters of credit issued by Brown Brothers & Co., and were uncollected at the time of the commencement of an action by Brown Brothers & Co. against James K. Place & Co., claiming the whole proceeds of the importation per said ship Leonore, in which action James M. Brown has been appointed receiver of all said uncollected debts, with authority to collect the same and hold the proceeds subject to the determination of said action:**

Name.	Gold.	Value.
H. & Co		$583 94
James Corlies, jr		525 75
Lawrence & Chambers		1,256 40
Robert Seaman		508 52
Hunting & Dorn		188 18
Inbusch Brothers		3,164 55
Baskerville, Sherman & Co		375 06
D. Wagstaff & Co		382 08
Huntingdon & Dorn		573 12
G. Harrison & Co		317 73
Kauffman & Jacobs		79 09
D. Wagstaff & Co		192 96
Baskerville, Sherman & Co		263 43
Carpenter & Willetts		179 04
Whittaker, Harmon & Co	$945 45	1,323 45
Ewing, Briggs & Co		2,325 82
J. W. Palmer & Sons		376 00
Whittaker, Harmon & Co	958 75	1,341 95
Bonnell & Adams		1,058 21
R. L. Leggett & Co		355 11
J. H. Merrill & Co	586 08	820 40
Baskerville, Sherman & Co		182 16
" " "		479 09
		$16,852 12

The following debts due to James K. Place & Co. accrued for sales of coffee imported per ship Nautilus on letters of credit issued by Duncan, Sherman & Co., and were uncollected at the time of the commencement of an action by Duncan, Sherman & Co. against James K. Place & Co., claiming the whole proceeds of the importation per said ship Nautilus, in which action James M. Brown has been appointed receiver of all said uncollected debts, with authority to collect the same and hold the proceeds subject to the determination of said action:

Name.	Gold.	Value.
Clarke & Briggs	$1,035 05	$444 05
Ross & Burgess		191 04
210 Warrington & Co	$1,344 18	$1,871 78
Hoppock & Greene		1,522 56
N. Hartzel & Co		360 93
Inbusch & Brother		3,779 91
Ross, Roberts & Co		380 23
C. F. Meyer		2,038 71
A. Englebert & Co	670 00	938 00
Gordon, McMillan & Co		2,519 00
Carver, Wendover & Co		6,900 50
Parker & Caldwell		187 68
Whittaker, Harmon & Co	542 44	759 24
D. C. Ripley & Co		361 92
Barritt, Cossitt & Co		2,670 62
D. C. Ripley & Co		597 52
E. C. Ely & Co	668 05	935 25
Meeker & Barker	1,089 53	1,524 60
Wilshire, Huston & Co		4,207 28
D. C. Ripley & Co		561 72
Neise, Knoblauch & Co		1,145 93
Huntingdon & Dorn		338 63
Alfred Talbot & Co		1,358 47
Warren, Hewett & Sweet		2,104 36
		$38,645 93

The following debts due to James K. Place & Co. accrued for sales of coffee purchased from Weston & Gray, and were uncollected at the time of the commencement of an action by them against J. K. Place & Co. claiming the whole proceeds of the purchase of that coffee, in which action George G. Haven has been appointed receiver of all uncollected debts arising from sales of said coffee purchased from Weston & Gray, with authority to collect the same and hold the proceeds subject to the determination of said action:

	Name.	Gold.	Value.
	J. W. Palmer & Son		$304 76
	Bailey, Clark & Chapin		598 78
	R. F. Pickert		317 77
	Waldron, Wightman & Co		160 94
	Mason, Pierce & Co		294 88
	Carney, Fenton & Co		1,506 58
	H. T. Davis & Co		321 85
	Thomas M. Kerr	$613 20—cur'cy $21 25	879 45
	T. Y. Kelly & Co	215 10	310 10
	J. W. Palmer & Sons		316 00
	S. S. Wyckoff & Co		653 40
	J. Millard & Cool		329 57
	Baskerville, Sherman & Co		294 56
211	G. E. Biddle & Co		$785 60
	W. J. & J. Clark		1,584 75
	Comegys, Brady & Co		3,106 54
			$11,765 52

JA'S K. PLACE.
JA'S D. SPARKMAN.

Individual property of James K. Place.

Four lots of land known as Nos. 132 & 134 Front street and Nos. 87 and 89 Pine street, with one building covering the whole of said four lots, the whole worth $125,000, subject to a mortgage for $41,000 to the executors of David Giraud, deceased, and to a mortgage for $79,000 to Jane C. Place, and to taxes and assessments for about $2,000			$3,000 00
Five shares of Sparkman, Place & King, a corporation, of the par value of $100			500 00
467 shares of stock of the Place Sugar Refinery of the par value of $100, worthless.			
75 shares Union Sugar Co., of the par vale of $100, worthless.			
25 acres of land at Binghamton, Broome County, N. Y., worth $5,200, subject to a mortgage for $2,326			2,874 00
560 acres of land at Saginaw, in the State of Michigan, belonging to J. K. & E. B. Place, in which James K. Place has an interest of 3-8ths, worth $8 an acre; full value $4,480—3-8ths			1,680 00
Three-eighths of the following mortgages on lands at Saginaw, Mich., which mortgages belong to J. K. & E. B. Place, now being in the possession of Gaylord & Hanchett, Saginaw City, Mich., the particulars of which cannot be given:			
Mortgage of	Anthony Schmidt	$532 00	
"	Michael Liedlem	1,600 00	
"	John Knefuer	500 00	
"	John J. Schell	800 00	
"	Christian Waltz	1,000 00	
"	John Kopkee	600 00	
"	John Limburg and Cha's Golderf	426 00	
		$5,458 00	2,046 75

	Promissory note of George Nichols, indorsed by McElvaine & Young, dated Feb. 16, 1857, payable 4 months after date, for $488.56, which note	
212	belongs to J. K. & E. B. Place, which is now in suit pending in the court of appeals from a judgment of the New York common pleas against the right of recovery by James K. & E. B. Place, worthless.	
	One gray horse	$750 00
	Total	$10,850 75

JAMES K. PLACE.

Individual property of James D Sparkman.

	A lot of land, with building thereon, known as No. 209 Pearl street, in the city of New York, of the value of $27,500, which is subject to a mortgage for $18,000, and to a lease expiring May 1, 1873	9,500 00
	140 shares of the stock of The Manufacturers' National Bank, at $30 a share—hypothecated for a debt of $, worthless.	
	561 shares of the stock of the Manufacturers' National Bank, at $30 a share	16,830 00
	300 shares Ogima Mining Co., of the par value of $25, worth $2 a share	600 00
	15 shares of the Van Anden File Co., worthless.	
	Bond of James T. Sparkman for $28,000, secured by a mortgage of five lots of land, with the buildings thereon, situated at the corner of Rutgers Place and Jefferson st., N. Y. City	28,000 00
	Promissory notes of Sparkman, Place & King, a corporation, payable two years from Nov. 16, 1867, with interest, good	20,473 37
	Note of James T. Sparkman, dated Nov. 1, 1867, payable 3 years after date	19,800 00
	Stock in Breckenridge Coal Co.; number of shares unknown; par value $53.70; worthless.	
	135 shares Union Sugar Company, par value $100, worthless.	
	1,000 shares Isaacs Harbor Gold Co., par value $5, worthless.	
	111 shares Noble Well Oil Co., par value of $25, worthless.	
	3 mortgage-bonds of the Everett Petroleum Co., each for $160, worthless.	
	8 shares of the L. I. Steamboat Co., of the par value of $25, worthless.	
	667 shares of the Place Sugar Refinery, of the par value of $100, worthless.	
213	10,751 shares of the N. Y. & Nevada Mining Co., of the par value of $10, worthless.	
	2 shares of Sparkman, Place & King, of the par value of $100 a share	200 00
	Lease of 3 lots on south side 43d street, between Fifth and Sixth avenues, under lease granted by Robert J. Livingston and wife for 21 years, at a rent of $100 a year for each lot, with a stable building covering the rear of said lots	15,000 00
	One-eighth interest in the lands and mortgages at Saginaw, Mich., particularly mentioned in the schedule of the individual property of James K. Place, preceding	1,242 25
		$111,645 62

JAMES D. SPARKMAN.

Recapitulation.

Merchandise, gold value	$174,827 88	
Deduct gold loan by Maitland, Phelps & Co	51,052 22	
	$123,775 66	
Equal in currency to	165,034 21	
Deduct loan of J. Caswell & Co	75,000 00	
	$90,034 21	
Debts due assignors	$213,155 96	
Individual property of James K. Place	10,850 75	
Individual property of James D. Sparkman	111,645 62	
Total value assigned		$425,686 54

Property in hands of receivers, as before stated:		
Proceeds of cargo of Leonore	$16,852 12	
Proceeds of cargo of Nautilus	38,645 93	
Proceeds of coffee purchased of Weston & Gray	11,765 52	
		$67,263 57

JAMES K. PLACE.
JAMES D. SPARKMAN.

214 EXHIBIT No. 23.

SEDGWICK
vs.
PREBLE.

R. E. S., examiner, &c.

(Endorsed:) District court of the U. S., southern district of New York. In bankruptcy. In the matter of James K. Place and James D. Sparkman, of the city of New York, county of New York, and State of New York. Petition of debtors, and Schedules A, B, C, D, E, and F, thereunder. Frederick A. Coe, att'y for petitioners; office, No. 170 Broadway; residence, Yonkers, Westchester County. Filed in the office of the clerk of the district court for said district, this 27th day of February, A. D. 1868, at 9 o'clock 20m. a. m. Geo. F. Betts, clerk. Fitch, February 27th, 2 p. m.

Copartnership petition.

To the Hon. Samuel Blatchford, judge of the district court of the United States for the southern district of New York:

The petition of James K. Place and James D. Sparkman, of the city of New York, in the county of New York, and State of New York, and district aforesaid, respectfully represents:

That the said James K. Place and James D. Sparkman, copartners, transacting business at the city of New York, in the county of New York, and State of New York, in said district, have resided and transacted business for the six months next immediately preceding the filing of this petition at the said city of New York, within said judicial district; that the members of said copartnership owe debts exceeding the amount of three hundred dollars, and are jointly and severally unable to pay all their debts in full; that they are willing to surrender all their estate and effects for the benefit of their creditors, and desire to
215 obtain the benefit of the act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867.

That the schedule hereto annexed marked "A," and verified by their oaths, contains a full and true statement of all their debts of said copartnership, and, as far as possible, the names and places of residence of their creditors, and the further statements concerning such debts required by the provisions of said act.

That the schedule hereto annexed marked "B," verified by their oaths, contains an accurate inventory of all the estate of said copartnership, as required by the provisions of said act.

And the said James K. Place further states that the schedule hereto annexed marked "C," verified by his oath, contains a full and true statement of all his individual debts, and, as far as possible, the names and places of residence of his creditors; and the further statement

concerning such debts required by the provisions of said act; and that the schedule hereto annexed, marked "D," verified by his oath, contains an accurate inventory of all his individual estate, as required by the provisions of said act.

And said James D. Sparkman further states that the schedule hereto annexed marked "E," verified by his oath, contains a full and true statement of all his individual debts, and, as far as possible, the names and places of residence of his creditors; and the further statement concerning such debts required by the provisions of said act; and that the schedule hereto annexed marked "F," verified by his oath, contains an accurate inventory of his individual estate as required by the provisions of said act.

Wherefore your petitioners pray that, after due proceedings had, they may be adjudged by a decree of the court to be bankrupts within the purview of said act; and upon their compliance with all their requirements of the said act, and all the orders and directions of the court made in pursuance thereof, they may be severally decreed to have a certificate of discharge from all their debts provable under said act, and otherwise entitled to all the benefits thereof.

JA'S K. PLACE,
J. D. SPARKMAN,
Petitioners.

FREDERICK A. COE,
Attorney for Petitioners.

Statement of all creditors who are to be paid in full, or to whom priority is secured, according to the provisions of the 28th section of said act.

Order of payment; preferred claims.	Reference to ledger or voucher.	Names of creditors.	Residences and occupations.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether contracted as copartner or joint contractor; and, if so, with whom.
1. Debts due the United States, and taxes and assessments under the laws thereof. None.	None.	None.	None.	None.	None.	None.
2. Debts due the State of New York, and taxes and assessments under the laws of said State. None.	None.	None.	None.	None.	None.	None.
217 3. Wages due clerk, servant, &c., to an amount not exceeding $50, for labor performed within six months. None.	None.	None.	None.	None.	None.	None.

4. Other debts preferred by said act. None.	None.	None.	None.	None.	None.	None.

JAMES K. PLACE,
J. D. SPARKMAN,
Petitioners.

Creditors holding securities.

[N. B.—Particulars of securities held, with dates of same, and when given to be stated under the names of the several creditors, and also particulars concerning each debt, as required by the 11th section of the act, and whether contracted as copartner or joint contractor with any other person; and, if so, with whom.]

Reference to ledger or voucher.	Names of creditors.	Residences and description.	When and where contracted.	Value of securities.	Amount of debts.
None	Manufacturers' National Bank.	City of New York: bankers; said bank holds the notes of James K. Place & Co., composed of James K. Place and James D. Sparkman, endorsed by Ephraim B. Place, note dated May 31, 1867, for $25,000, of which $22,494.50 remains unpaid, and is now due and payable.	City of New York, May 31, 1867.	$22,494 50	$22,494 50
None	Ephraim B. Place	City of New York; no business; he holds as collateral security 12 shares of the Humboldt Fire-Insurance Company; 90 shares of the Corn Exchange Fire-Insurance Company; 467 shares of the Place Sugar Refinery, a manufacturing corporation, and 200 shares of Sparkman, Place and King, also a manufacturing corporation, as security for his endorsement of notes of James K. Place & Co., two for $25,000 each, due December 14th and 29th, 1867, one for $50,000, due November 27th, 1867, and one for $30,000, due October 4th, 1867, and as security for the note of James K. Place & Co., for $30,000, dated December 1st, 1865, given for his interest in the late firm of Place & Turlay.	City of New York, in the years 1865, 1866, & 1867.	$25,000 00	$150,000 00
219					
None	John Caswell & Co., composed of John Caswell, Edmund W. Corlies, Benjamin Bryer, and William H. Caswell.	City of New York: merchants; for this debt they held in pledge 1,650 bags of coffee and 1,754 packages of tea, the same being pledged to secure a loan of $75,000 made November 4, 1867, due January 6, 1868.	City of New York, November 4, 1867.	$90,000 00	$68,859 00
None	Maitland, Phelps & Co., composed of Royal Phelps, Rob't Gordon, and Benjamin F. Butler.	City of New York: merchants; for this debt there was pledged to them as security 4,450 bags of coffee; the indebtedness was by reason of a loan of $51,052 22 in gold, made October 10, 1867, to be repaid, in gold, December 9, 1867.	City of New York, October 10, 1867.	80,000 00	66,656 22
None	R. Ten Broeck	City of New York; lawyer. This was a debt contracted by J. K. & E. B. Place, for which their note was given dated September, 1862, for $2,050, payment of which was assumed by James K. Place & Co., December 1, 1865, but the note of J. K. & E. B. Place, is still held by the creditor.	City of New York, December 1, 1865.	917 58	917 58
215	A. S. Anderson	Buffalo, New York: merchant; $25,000 of this debt was contracted by J. K. & E. B. Place, for which their five notes were given, each for $5,000; one dated February 20, 1863, payable on demand; one dated March 18, 1863, payable on demand; one dated March 7, 1864, due March 7, 1864, and two dated March 4, 1863, due March 4, 1864, on which there is due, for principal and interest, $26,349.00; this debt was assumed by James K. Place & Co., December 1, 1865; but the notes of J. K. & E. B. Place are still held by the creditor.	City of New York, December 1, 1865.	26,349 00	32,349 00
220					

None	Metropolitan National Bank.	City of New York; banker. For this debt the bank holds four notes made by E. B. Place, one for $25,326 88, due June 7, 1868; one for $26,326 88, due September 7, 1868; one for $26,764.38, due December 7, 1868; one for $27,201 88, due March 7, 1869.	City of New York, December, 1867.	$106, 182 44	$106, 182 44
None	National Park Bank	City of New York; banker. For this debt the bank holds four notes, made by E. B. Place, each for $4,000 and interest, and becoming due, respectively, June 24, 1868, September 24, 1868, December 24, 1868, and March 24, 1869.	City of New York, December, 1867.	16,000 00	16,000 00
221 None	Brown Brothers & Co., composed of James Brown, Stewart Brown, James M. Brown, Charles D. Dickey, Howard Potter, John Cross by Brown, Clarence S. Brown, Mark W. Collett, Francis A. Hamilton, Stewart Henry Brown, and Herman Hoskin.	City of New York; bankers. This debt arose out of letters of credit granted by Brown Brothers & Co., to James K. Place & Co., under which James K. Place & Co. purchased coffee at Rio de Janeiro, in the Empire of Brazil, and by special agreement with Brown Brothers & Co., the coffee was shipped to them and pledged to them as security for the payment of the bills of exchange drawn under the letters of credit on Brown, Shipley & Co., of Liverpool, composed of the same persons as Brown Brothers & Co., and accepted by them. By the arrangement between the parties, the coffee was placed in the hands of James K. Place & Co., to be sold, they to account for the proceeds by providing for the payment of the bills of exchange before maturity; the coffee thus pledged consisted of 4,432 bags imported per ship Leonore, 1,018 bags of which has been taken possession of by said Brown Brothers & Co.; 364 bags of coffee imported by ship Bravo, the whole of which has been taken possession of by Brown Brothers & Co.; 1,056 bags of coffee imported by ship Georgiana, sold by James K. Place & Co., the proceeds of which sale was taken by Brown Brothers & Co., and this debt also arose under a similar letter of credit under which 539 mats coffee was purchased by James K. Place & Co., at Singapore, which was shipped per ship Martha Rideout, consigned to Brown Brothers & Co., as security for the bills of exchange drawn for the purchase of the coffee which have been or are to be accepted by said Brown, Shipley & Co.; this coffee has not arrived, and is insured in the Atlantic Mutual Insurance Co., the policies of insurance being held by Brown Brothers & Co. They have recovered judgment on the above matters against the petitioners in the supreme court of the State of New York, February 13, 1868; that they are entitled to the coffee taken by them, the proceeds of coffee sold not collected, and for $83,653 89.	City of New York, June, 1867.	Not known. Cannot be ascertained.	Not known. Cannot be ascertained.
222					
None	New York agency of the Bank of British North America. Who the individual parties are composing or interested in this agency or bank, and whether it is a partnership or a corporation is unknown, and cannot be ascertained.	City of New York; bankers. This debt arises out of similar letters of credit, as above mentioned, in relation to the indebtedness of Brown Brothers & Company, and under similar agreements as with Brown Brothers & Company, by which the coffee purchased was pledged to secure the payment of bills of exchange drawn for the purchase of said coffee, under which 3,323 bags of coffee were purchased by James K. Place & Co., at Rio de Janeiro aforesaid and imported per ship Bravo, the whole of which, or the proceeds of the sale of which, have been received by the said New York agency of the said bank; also, 5,497 bags of coffee was purchased by James K. Place & Co., at Rio de Janeiro, and imported per ship Fidelia, the whole of which has been taken possession of by said agency of said bank. Said James K. Place & Co., on the 23d of December, 1867, gave an order for the purchase of coffee to be paid for by said letters of credit; of what coffee has been purchased pursuant to said order is not known,	New York City, in the year 1867.	Not known and cannot be ascertained.	Not known and cannot be ascertained.
223					

SCHEDULE A, No. 2—Continued.

Creditors holding securities.

Reference to ledger or voucher.	Names of creditors.	Residences and description.	When and where contracted.	Value of securities.	Amount of debt.
		but if any has been purchased it is pledged, as aforesaid, for the payment of the bills of exchange drawn for the purchase thereof.			
*None	Duncan, Sherman & Co., composed of W'm Butler Duncan, David Duncan, and William Watts Sherman, survivors of William A. Mackintosh, deceased.	City of New York; bankers. This debt arises out of similar letters of credit, as above mentioned, in relation to the indebtedness of Brown Brothers & Co., and under similar agreements, as with Brown Brothers & Co., by which the property purchased was pledged to secure the payment of the bills of exchange drawn for the purchase thereof. Under these letters of credit orders were given by James K. Place & Co., on July 30, 1867, for the purchase of pepper, nutmegs, and mace, in the East Indies. It is not known whether any purchases were made in pursuance of said orders. If they have been, and bills of exchange drawn for the payment thereof, the goods purchased are consigned and pledged to Duncan, Sherman & Co., as security for the payment of such bills. Under these letters of credit 4 677 bags of coffee were purchased by James K. Place & Co., at Rio de Janeiro, and imported per ship Nautilus, and pledged to Duncan, Sherman & Co, to secure the payment of the bills drawn for the "purchase thereof," of which Duncan, Sherman & Co. have taken possession of 3,030 bags, and the skimmings and sweepings thereof Under these letters of credit 1,123 bags of coffee were purchased by said James K. Place & Co. at Rio de Janeiro, and imported per ship Bravo, pledged to said Duncan, Sherman & Co., as security for the payment of the bills drawn for the payment thereof, the whole of which has been taken possession of by said Duncan, Sherman & Co. Under these letters of credit 4,044 bags of coffee were purchased at Rio de Janeiro, by James K. Place & Co., and imported per ship Georgiana, pledged to said Duncan, Sherman & Co, for the payment of the bills of exchange drawn for the purchase thereof and sold by James K. Place & Co., to arrive; and on arrival the coffee was delivered to Duncan, Sherman & Co., pursuant to such sale, and the whole proceeds of such sale claimed and taken by them: also, under these letters of credit 750 bags of coffee were purchased at Rio de Janeiro by James K. Place & Co., and imported per ship North America, pledged to said Duncan, Sherman & Co., as security for the payment of the bills of exchange drawn for the payment thereof, the whole of which has been taken possession of by said Duncan, Sherman & Co.	City of New York, May, 1867.	Not known and cannot be ascertained.	Not known and cannot be ascertained.
224					
225					
None	J. L. Phipps & Co., composed of John Lewis Phipps, Charles Paul Phipps, William Turner Holworthy,	City of New York; bankers. This debt arises on similar letters of credit, as above mentioned, in relation to the indebtedness of Brown Bro's & Co., and under similar agreements as with Brown Bro's & Co., by which the property purchased was pledged to secure the	City of New York, June 22, 1867.	325 00	*116,215 44

226	Barlow Fletcher Allen, Charles Thomas Gostenhofer & Arthur Edward Phillips.	payment of the bills of exchange drawn for the purchase thereof. Under this letter of credit James K. Place & Co. purchased at Rio de Janeiro 4,500 bags of coffee, imported per ship Naiad, pledged to said J. L. Phipps & Co., to secure the payment of the bills of exchange drawn for the purchase thereof, and placed in the hands of James K. Place & Co. for sale, they to account and apply the proceeds of the sale to provide for said bills of exchange, of which coffee 19 bags was taken possession of by said J. L. Phipps & Co. An assignment has also been made of all the individual property of James K. Place, which embraces the property mentioned in the schedules hereunto annexed, marked "C," to Henry J. Cullen, jr., under proceedings taken before the Hon. George G. Barnard, a justice of the supreme court of the State of New York, pursuant to the laws of said State, by said J. L. Phipps & Co., against said James K. Place, the avails of which will be obtained by said J. L. Phipps & Co. on account of their said debt.			
None	Dabney, Morgan & Co., composed of Charles H. Dabney, John Pierrepont, George H. Morgan, and James J. Goodwin.	City of New York; bankers. This debt arises on similar letters of credit, as above mentioned, in relation to the indebtedness to Brown Brothers & Co., and under similar agreements with Brown Brothers & Co., by which the property purchased was pledged to secure the payment of the bills of exchange drawn for the purchase thereof. Under these letters of credit James K. Place & Co. purchased at Shanghai, China, 3,183 packages of tea, now in course of importation, per ship Americus, but not arrived, consigned and pledged to Dabney, Morgan & Co., as security for the bills of exchange drawn for the purchase thereof. Under these letters of credit James K. Place & Co., on the 29th of June, 1867, gave an order for the purchase of teas at Foo-Chow, China, and on the 7th of November, 1867, gave an order for the purchase of coffee at Rio de Janeiro. It is not known whether any purchases have been made pursuant to these orders, or either of them; but if they have, the property purchased is pledged to Dabney, Morgan & Co. to secure the payment of the bills of exchange drawn for the purchase thereof.	City of New York, Spring of 1867.	Not known & cannot be ascertained.	Not known & cannot be ascertained.
227					
None	Bunge, Burlage & Co., composed of Gustavus Bunge, Rudolph C. Burlage, and Jacob Deneufville.	City of New York; bankers. This debt arose under similar letters of credit, as above mentioned, in relation to the indebtedness of Brown Brothers & Co., by which the property purchased was pledged to secure the payment of the bills of exchange drawn for the purchase thereof. Under these letters of credit James K. Place & Co. purchased at Batavia, in the island of Java, 6,000 piculs of coffee, imported by ship Heinath, consigned and pledged to said Bunge, Burlage & Co., to secure the payment of the bills of exchange drawn for the purchase thereof, which coffee has arrived and has been sold by said Bunge, Burlage & Co., but no accounts respecting the same have yet been made. Said James K. Place & Co., under said letters of credit, gave an order on the 2d of July, 1867, for the purchase of 6,000 piculs of coffee, at Batavia, Java, which has been purchased, and is consigned and pledged to Bunge, Burlage & Co., to secure the payment of the bills of exchange drawn for the purchase thereof, the amount of which is not known. Said James K. Place & Co., under said letters of credit, gave an order on the 2d of July, 1867, to	City of New York, April 25th, 1867.	Not known and cannot be ascertained.	Not known and cannot be ascertained.
228					

* In the original are the figures 117,000 underneath the above figures, which figures 117,000 have lines of erasure drawn through them.

SCHEDULE A, No. 2—Continued.

Creditors holding securities.

Reference to ledger or voucher.	Names of creditors.	Residences and description.	When and where contracted.	Value of securities.	Amount of debt.
229 None	Simon de Visser	purchase 150 piculs of nutmegs and 50 piculs of mace; and also, on the 13th of September, 1867, to purchase 250 piculs of nutmegs, and 5 to 6,000 piculs of coffee. It is not known that any purchases have been made under these orders. If there has, the goods purchased are consigned to Bunge, Burlage & Co., to secure the payment of the bills of exchange drawn for the purchase thereof. City of New York; banker. This debt arises on similar letters of credit, as above mentioned, in relation to the indebtedness to Brown Bros. & Co., and under similar agreements as with Brown, Bros. & Co., by which the property is pledged to secure the payment of the bills of exchange drawn for the purchase thereof. Under this letter of credit James K. Place & Co., on June 1st, 1867, gave an order for the purchase of teas at Yokohama, Japan. It is not known that any purchases were made under this order. If they had been, the goods purchased are assigned and pledged to Simon de Visser to secure the payment of the bills of exchange drawn for the purchase thereof.	City of New York, June 1st, 1867.	Not known and cannot be ascertained.	Not known and cannot be ascertained.

There is no judgment, bond, bill of exchange, or promissory note recovered for, made, connected with, or appertaining to any or either of the above-mentioned claims, excepting or otherwise as is therein particularly specified.

JA'S K. PLACE,
J. D. SPARKMAN,
Petitioners.

SCHEDULE A, No. 3.

Creditors whose claims are unsecured.

[N. B.—When the name and residence (or either) of any drawer, maker, endorser, or holder of any bill or note, &c., are unknown, the fact must be stated; and also the name, residence, and occupation of the last holder known to the petitioner. The debt to each creditor must be stated in full, and any claim by way of set-off stated in the schedule of property; the nature of each debt and demand, whether founded on written security, obligation, contract, or otherwise; and also the true cause and consideration of such indebtedness in each case, and the place where such indebtedness accrued.]

Reference to ledger or voucher.	Names of creditors.	Residences and occupations.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person; and, if so, with whom.
519	Van Zandt Brothers; the individual names of the members of the firm unknown and cannot be ascertained.	Rochester, N. Y.; merchants	$4 61	City of New York	In open account, being overpayment on bill of merchandise sold them.
176	E. Levering & Co.; the individual names of the members of the firm unknown and cannot be ascertained.	Baltimore, Md.; merchants.	7 70	City of New York	In open account, being overpayment on bill of merchandise sold them.
793	Benjamin Berry	Baltimore, Md.; merchant..	84 62	City of New York	In open account, being overpayment on bill of merchandise sold them.
393	William M. Hoyt & Co.; the individual names of members of this firm unknown and cannot be ascertained.	Chicago, Ill.; merchants....	188 70	City of New York	In open account, being overpayment on bill of merchandise sold them.
231 691	William Hefferman.....	Louisville, Ky	229 16	City of New York	For cash deposited subject to draft in open account.
None.	George Wells, jr.....	City of New York; broker..	2, 562 70	City of New York	For judgment recovered in the supreme court of the State of New York, Dec. 31, 1867, for $2 562.70, the consideration of which was $2,500 cash loaned, interest thereon, and costs of suit.
None	Peter Schersten.....	City of New York; merchant.	2, 550 00	City of New York	In open account, for cash loaned on interest to be paid on demand.
231	Miller, Greiner & Co.; the individual names of this firm unknown and cannot be ascertained.	Buffalo, N. Y	4, 966 67	City of New York	In open account, for cash loaned to be paid on demand, with interest. On account of this said Miller, Greiner & Co. drew their draft, dated Nov. 18, 1867, in favor of John M. Smith's Son & Co., for $2,968.69, which draft was taken up by the petitioners by their check on the Manufacturers' National Bank, New York, the payment of which was refused by bank.
None	John M. Smith's Son & Co., composed of Lawrence S. Smith, Fowald Cameron, Andrew J. Scott.	City of New York; merchants.	2, 968 69	City of New York, November 20, 1867.	On check given in payment of the draft of Miller, Greiner & Co., as above states.
232 None.	Henry D. Van Orden.....	Brooklyn, New York; lawyer.	2, 500 00	City of New York	For cash loaned, to be repaid on demand, with interest, in open account.

SCHEDULE A, No. 3—Continued.

Creditors whose claims are unsecured.

Reference to ledger or voucher.	Names of creditors.	Residences and occupations.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person; and, if so, with whom.
345.....	Alfred Arone.....	New York City; merchant..	$165 00	New York City.....	For the proceeds of the sale of merchandise belonging to him, sold by the petitioners, in open account.
None	Susan A. Place	City of New York; no business.	6,039 00	New York City.....	For cash loaned, to be repaid on demand with interest, and for money belonging to her, collected by the petitioners, in open account.
None	Jane C. Place.....	City of New York; no business.	53,518 00	New York City.....	In open account, for cash loaned, to be repaid on demand, with interest, and for money belonging to her collected by the petitioners.
None	Robert Read.....	New York City; merchant..	10,361 24	New York City.....	In open account, for cash loaned, payable on demand, with interest.
None	O. W. F. Randolph	New York City; merchant..	66,985 28	New York City.....	In open account, for cash loaned, payable on demand, with interest.
233 None .	Joseph S. Barker.....	Sing Sing, N. Y.; insurance.	24,589 28	New York City.....	In open account, for cash loaned, payable on demand with interest.
245.....	John Betram.....	Salem, Massachusetts; merchant.	11,524 52	New York City.....	In open account, for merchandise sold by him to the petitioners.
559.....	Heinemann & Payson; Emil Heinemann and Frank Payson.	New York City; merchants	48,352 02	New York City, February 17, 1868.	For merchandise sold by them to the petitioners, for which they have recovered a judgment in the supreme court of the State of New York, February 17, 1868.
600.....	Henry Eyre	New York City; merchant..	105,129 50	New York City, September 22, 1867.	For 21 promissory notes of James K. Place & Co., each dated July 19, 1876, each for $5,000, due Nov. 22, 1867, all of which were given for merchandise sold to petitioners.
196.....	Weston & Gray; Richard W. Weston, Horace Gray, and Benjamin F. Smith.	New York City; merchants.	93,042 18	New York City, September, 1867.	In open account, for merchandise sold to petitioners.
None 234	Manufacturers' National Bank.	New York City; banker....	72,494 50	New York City, May 31, 1867, and July, 1867.	$22,494.50 of this amount is the balance due on a loan of $25,000 made May 31, 1867, for which the bank holds the note of James K. Place & Co., endorsed by E. B. Place, payable on demand; the balance of $50 000 is for ten notes of Ja's K. Place & Co., each for $5,000, and payable four months after date; two dated July 25, 1867; two dated July 26, 1867; two dated July 27, 1867; two dated July 29, 1867, and two dated July 30, 1867; all of which notes were discounted by said bank.
None	Newark Banking Company .	Newark, N. J.; bankers.....	5,000 00	New York City, July, 1867 ..	For note of Ja's K. Place & Co for $5,000 dated July, 1867, due Nov. 23, 1867, cashed by P. J. & A. Armour, and purchased by said Banking Co.
None	H. Blydenburgh	New York City; business unknown.	10,000 00	New York City, July and August, 1867.	For two notes of Ja's K. Place & Co., each for $5,000, payable four months after date; one dated July 27, 1867, and

					the other, August 23, 1867, cashed by P. J. & A. Armour, and purchased by said Blydenburgh.
235	None.	First National Bank.....	New Haven, Connecticut; bankers.	20,000 00	New York City, July and September, 1867.	For four promissory notes of Ja's K. Place & Co., each for $5,000, payable four months after date, one dated July 26, 1867, two dated July 27, 1867, which were cashed by P. J. & A. Armour, and one dated Sep. 3, 1867, which was cashed by J. F. Underhill, all of which was purchased by said bank.
	None.....	Second National Bank.....	New Haven, Connecticut; bankers.	5,000 00	New York City, August 24, 1867.	For note of Ja's K. Place & Co, dated August 24, 1867, due Dec. 27, 1867, cashed by P. J. & A. Armour, and purchased by said bank.
	None.....	Merchants' Bank.....	Norwich, Connecticut; bankers.	5,000 00	New York City, August 10, 1867.	For note of Ja's K. Place & Co., dated Aug. 10, 1867, due Dec. 13, 1867, cashed by P. J. & A. Armour, and purchased by said bank.
	None.....	Merchants' Exchange National Bank.	New York City; bankers...	5,000 00	New York City, August 23, 1867.	For note of Ja's K. Place & Co., dated Aug. 23, 1867, due Dec. 26, 1867, cashed by P. J. & A. Armour, and purchased by said bank.
	None.....	American Exchange National Bank.	New York City; bankers...	4,682 50	New York City, August 28, 1867.	For note of James K. Place & Co., dated Aug. 28, 1867, due Dec. 31, 1867, and given to the Place Sugar Refinery in exchange for its note of like amount and date, and discounted by said bank.
236	None.	Goodridge & Walker; Solon F. Goodridge, John T. Walker.	New York City; merchants	5,000 00	New York City, Aug. 28, 1867.	For note of Ja's K. Place & Co., dated Aug. 28, 1867, due Dec. 31, 1867, given to the Place Sugar Refinery for its note of same date and amount, and passed to Goodridge & Walker.
	None.....	Spence Montague & Co., composed of James C. Spence, William W. Spence, Dibrell P. Montague, and Andrew Reid.	City of New York; merchants.	10,000 00	City of New York, Aug. 23 and 24, 1867.	For two notes of James K. Place & Co., each for $5,000, payable 4 months after date, dated respectively Aug. 23d and 24th, 1867, cashed by P. J. & A. Armour, and purchased by Spence, Montague & Co.
	None.....	William Agnew & Sons, composed of William Agnew, John T. Agnew, and Alexander M. L. Agnew.	City of New York; merchants.	5,000 00	City of New York, August 7th, 1867.	For note of Ja's K. Place & Co., dated Aug. 7, 1867, at 4 months, cashed by P. J. & A. Armour, and purchased by W'm Agnew & Sons.
	None.....	Fourth National Bank.....	City of New York; bankers	22,625 00	City of New York, September, 1867.	For 5 notes of Ja's K. Place & Co., each payable 4 months after—three for $4,500 each, one dated Sept. 7, 1867, two dated Sept. 24, 1867, and two for $4,560 each, and dated Sept. 7 & 18th, 1867, given to the Place Sugar Refinery, for merchandise purchased Nov. 8, 1867, and discounted by the bank for the Place Sugar Refinery.
237						
	54.....	Atlantic Mutual Insurance Co.	New York City; insurance.	24,798 74	New York City, during the years 1866 and 1867.	For 6 notes of Ja's K. Place & Co., given for premium of insurance—one dated Dec. 26, 1866, due Dec. 29, 1867, for $4,801.25; one dated June 7th, 1867, due Dec. 10, 1867, for $2,063.75; one dated June 27, 1867, due Dec. 30, 1867, for $1,668.75; one dated Aug. 21st, 1866, due February 24, 1868, for $1,256.87; one dated Sept. 10, 1867, due March 13, 1868, for $2,345; one dated Oct. 22, 1867, due April 25, 1868, for $1,829.37; one dated June 21, 1860, due June 24, 1868, for $601.25; one dated June 29, 1867, due July 2, 1868, for $3,601.25; and one dated July 30, 1867, due Aug. 2, 1868, for $1,102 25.

SCHEDULE A, No. 3—Continued.

Creditors whose claims are unsecured.

Reference to ledger or voucher.	Names of creditors.	Residences and occupations.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person; and, if so, with whom.
238 719	Place, Trigg & Co., composed of Charles Place, George P. Trigg.	New York City; merchants	$493 12	New York City, during the year 1859.	The petitioners took property at Buffalo to secure a debt due by H. O. Cowing, against whom Place, Trigg & Co. also had a debt, and the property was taken to secure both debts; it has been sold, and the proceeds received by the petitioners.
None	John Caswell & Co., composed of John Caswell, Edmund W. Corlies, Benjamin Bryer, and William H. Caswell.	New York City; merchants	62, 859 00	New York City, November 4th, 1867.	For balance due for a loan of $75,000, in cash, made to Ja's K. Place & Co., Nov. 4, 1867, due January 6, 1868, for which 1,650 bags of coffee and 1,754 packages of tea were pledged as security.
None	Maitland, Phelps & Co., composed of Royal Phelps, Robert Gordon, and Benjamin F. Butler.	New York City; merchants	66, 556 22	New York City, October 10th, 1867.	For a loan of money to Ja's K. Place & Co., for $51,052.22 in gold, to be returned in gold or its equivalent in currency Dec'r 9, 1867, for which they hold pledged as security 4,450 bags of coffee.
239 681	W. J. McCahan & Co. Individual names unknown and cannot be ascertained.	Philadelphia, Pennsylvania; merchants.	22 00	New York City, October, 1867.	In open account for overpayment on a bill of merchandise sold them.
405.....	Reid, Murdock & Fisher. Individual names not known and cannot be ascertained.	Chicago, Illinois; merchants.	112 67	New York City, November 1st, 1867.	For interest on a payment made by them in advance of its maturity for a bill of merchandise sold them.
None	R. Ten Broeck and Thomas O. Silkman.	New York City; lawyers ...	1,000 00	New York City, December 1st, 1865.	In open acc'nt for cash loaned, payable on demand.
None	R. Ten Broeck	New York City; lawyer ...	917 58	New York City, December 1st, 1865.	For balance of a note of J. K. & E. B. Place, dated Sept., 1862, for $2,050, given for money loaned, the payment of which was assumed by Ja's K. Place & Co.
251.....	D. J. & Z. S. Ely & Co., composed of David J. Ely, Zebulon S. Ely, and John A. Ely.	New York City; merchants	3, 361 73	New York City, November, 1867.	In open account for overpayment on account of merchandise sold them.
215.....	A. S. Anderson.....	Buffalo, N. Y.; merchant....	32, 349 00	New York City, Dec. 1, 1865, and in the year 1866.	$6,000 of this amount is in open account for money loaned Ja's K. Place & Co., payable on demand, and the balance is for the principal and interest of five notes, each for $5,000, made by J. K. & E. B. Place, one dated Feb'y 20, 1863, payable on demand; one dated March 18, 1863, payable on demand; one dated March 7, 1863, due March 7, 1864; two dated March 4, 1863, due March 4, 1864, which notes were given for money lent, the payment of which was assumed by James K. Place & Co.
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67.....	Thomas T. Sheffield.....	Brooklyn, New York; clerk.	$1, 500 00	New York City, August, September, October, and November, 1867.	In open account for 3 months' services as clerk to James K. Place & Co.

136		New York Gas-light Co	New York City; gas manufacturers.	$35	95	New York City, November, 1867.	In open account for gas furnished James K. Place & Co.
136		Philip Livingston	New York City; storehouse-keeper.	165	74	New York City, in fall of 1867.	In open account for storage of merchandise for James K. Place & Co.
136		Wetmore, Cryder & Co., composed of Edward L. Hedden, Duncan Cryder, and William F. Milton.	New York City; merchants	352	76	New York City, fall of 1867	In open account for storage of merchandise for James K. Place & Co.
241	136	E. Johnson & Co. Individual names not known and cannot be ascertained.	New York City; merchants	63	00	New York City, fall of 1867	In open account for storage of merchandise for James K. Place & Co.
136		Sackett & Mackay; Elisha W. Sackett and Herbert R. Mackay.	New York City; stationers	159	36	New York City, fall of 1867	In open account for stationery sold James K. Place & Co.
136		N. F. Bryant	Boston, Mass.; storehouse-keeper.	92	44	Boston, Massachusetts, November, 1867.	In open account for storage of merchandise for James K. Place & Co.
None		National Bank of Commerce	New York City; bankers	10,900	50	New York City, Dec., 1867	For note of Carver, Wendover & Co,. of S't Louis, Missouri, for $6,900.50, due Dec. 31, 1867, and of Bentley, Burton & Co., of New York, for $4,000, due Dec 8, 1867, indorsed by said James K. Place & Co., and discounted for them by said bank.
None		National Park Bank	New York City; bankers	1,783	34	New York City, November, 1867, and February, 1868.	For note of Shields & Boucher, Pittsburgh, Pennsylvania, for $791.90, due Nov. 26, 1867, and note of A. A. Gould, of New York, due Feb'y 8, 1868, for $1,041.44, indorsed by said James K. Place & Co., and discounted for them by said bank.
None		American Exchange National Bank.	New York City; bankers	9,862	50	New York City, Dec., 1867	For two notes of the Place Sugar-Refinery, one for $5,000 and one for $4,862.50, both due Dec. 31, 1867, indorsed by Ja's K. Place & Co., and discounted for them by said bank.
242	136	Mitchelburne Hackett and Robert Henderson, composing the firm of Hackett & Henderson.	New York City; brokers	1	62	At New York City, December 1, 1867.	For commissions on the sale of goods for the firm of Ja's K. Place & Co., in open account, and now past due.
136		William H. Carew, Charles B. Heydon, composing the firm of Carew & Heydon.	New York City; brokers	3	18	At New York City, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136		James H. Wilson	New York City; brokers	3	34	At New York City, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136		W. H. Blair	New York City; brokers	3	39	At New York City, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136		J. H. Recknagle	New York City; broker	3	80	At New York City, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136		Hugh H. Edwards and Charles C. Holmes, composing the firm of Edwards & Holmes.	New York City; brokers	3	82	At New York City, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
243	136	Isaac S. Barrett and Edward A. Smith, composing the firm of I. S. Barrett & Co.	New York City; brokers	5	25	At New York City, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.

SCHEDULE A, No. 3—Continued.

Creditors whose claims are unsecured.

Reference to ledger or voucher.	Names of creditors.	Residences and occupations.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person; and, if so, with whom.
136.....	Volney Green and Alden Wattles, composing the firm of Green & Wattles.	New York City; brokers...	$1 80	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136.....	Edward T. Young and Ja's R. Knapp, composing the firm of Young & Knapp.	New York City; brokers...	8 09	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136.....	Juan Barcelo, August Vatable and Jules Vatable, composing the firm of Barcelo & Vatable Bros.	New York City; brokers...	6 27	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136.....	Frank W. Allin & Donald McDonald, composing the firm of Allin & McDonald.	New York City; brokers...	6 55	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136.....	G. W. Prichard.....	New York City; broker...	6 32	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136.....	W. H. Rielly.....	New York City; broker...	7 92	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136.....	Winthrop G. Ray, Francis Williams, and Freeman E. Clark, composing the firm of Winthrop G. Ray & Co.	New York City; brokers...	12 23	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
244 136	R. H. Leathem.....	New York City; broker...	18 54	At city of New York, December 1, 1867.	For commission on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136.....	Jeremiah B. Cleveland, Wilmiah H. Case, and Sandford W. Battershall, composing the firm of Cleveland, Case & Co.	New York City; brokers...	38 98	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136.....	Horace A. Foot and Alfred B. Lewis, composing the firm of Foote & Lewis.	New York City; brokers...	17 00	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136.....	Adoniram J. Pierson and David N. Beebe, composing the firm of Pierson & Beebe.	New York City; brokers..	11 97	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136.....	Rufus D. Case and James W. Carrington, composing the firm of R. D. Case & Co.	New York City; brokers...	14 13	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136.....	John Bailey.....	New York City; broker...	29 22	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.

245	136	Samuel S. Osborne, Wilbur F. Bates, and Joseph E. Sprague, composing the firm of Osborne, Bates & Co.	New York City; brokers	25	38	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136	.....	James Montgomery and John R. Montgomery.	New York City; brokers	63	62	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136	.....	M. Canfield	New York City; broker	23	78	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136	.....	H. H. Lemcke	City of New York; broker	63	57	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136	.....	John Dymond and James Lally, composing the firm of Dymond & Lally.	City of New York; brokers	24	68	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136	.....	Theodore A. Sheffield and William Childs, j'r, composing the firm of Sheffield & Childs.	City of New York; brokers	16	61	At city of New York, December 1, 1867.	For commission on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136	.....	Augustus G. Hildreth	City of New York; broker	39	83	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136	.....	George S. Scott	Montreal, Canada East; broker.	186	55	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
246	136	Warren Beebe & Leonard Beebe, composing the firm of Warren Beebe & Co.	New York City; brokers	82	85	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136	.....	H. W. Small & Co. The individual names of this firm are unknown and cannot be ascertained.	Cincinnati, Ohio; brokers	17	31	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136	.....	Linton & Grieve. The individual names of this firm are unknown and cannot be ascertained.	Philadelphia, Pa.; brokers	45	84	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136	.....	Otis W. Booth, Charles E. Booth and John H. Linsly, composing the firm of Otis W. Booth & Co.	City of New York; brokers	135	59	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136	.....	John Olendorf, Joseph S. Case, Frank A. Allen and Chauncey Belknap, j'r, composing the firm of Olendorf, Case & Co.	City of New York; brokers	330	46	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136	.....	Abraham Wyckoff	City of New York; broker	392	11	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
247	136	William Scott, James Scott, and John F. Scott, composing the firm of William Scott & Son.	City of New York; brokers	441	03	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136		Morris & Sherman, individual names unknown and cannot be ascertained.	City of New York; brokers	13	60	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.

SCHEDULE A, No. 3—Continued.

Creditors whose claims are unsecured.

Reference to ledger or voucher.	Names of creditors.	Residences and occupations.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person; and, if so, with whom.
136	Benjamin Squiers	City of New York; broker..	6 98	At city of New York, December 1, 1867.	For commissions on the sale of goods for said firm of Ja's K. Place & Co., in open account, and now past due.
136	Augustus Aymar, John W. Cater, Aymar Cater, and Joseph Gaillard, j'r, composing the firm of Aymar & Co.	City of New York; merchants.	61 76	At city of New York, September 28, 1867.	For balance due on bill for storage of tea by the said firm of Ja's K. Place & Co., in open account, and now past due.
136	Gardiner T. Howland, Meredith Howland, and Lloyd Aspinwall, composing the firm of Howland Aspinwall.	City of New York; merchants.	193 65	At city of New York, December 1, 1867.	For storage on tea, due by the said firm of Ja's K. Place & Co. to said firm of Howard & Aspinwall, in open account, and now past due.
136	Abraham Leggett and William A. Leggett, composing the firm of A. Leggett Son.	City of New York; merchants.	33 50	At city of New York, November 7, 1867.	For coffee purchased by the said firm of Ja's K. Place & Co., in open account, and now past due.
136	R. W. Roberts	City of New York; carman	28 00	At city of New York, November 1, 1867.	For service in sprinkling street for said firm of Ja's K. Place & Co., in open account, and now past due.
248 136	R. Parker.....	City of New York; ice-dealer.	448 60	At city of New York, November 15, 1867.	For ice purchased by the said firm of Ja's K. Place & Co., in open account, and now past due.
136	William E. Pine, David G. Wright, and Henry L. Twiggs, composing the firm of Pine, Wright & Twiggs.	City of New York; weighers.	219 15	At city of New York, November 30, 1867.	For weighing merchandise for the said firm of Ja's K. Place & Co., in open account, and now past due.
136	Ja's E. Fountain and Cha's R. Churchill, composing the firm of Fountain & Churchill.	City of New York; weighers.	164 37	At city of New York, November 23, 1867.	For making duplicate weigher's returns for weights of merchandise weighed by them for the said firm of Ja's K. Place & Co., in open account, and now past due.
None	William Endall	New York City; merchants	8,699 48	New York City, December, 1867, and February, 1868.	For the notes of Bentley, Burton & Co., of New York, for $1,208.04, due Dec. 15, 1867, and of said Bentley, Burton & Co., for $5,000, due Dec. 4, 1867, and the note of A. A. Gould, of New York, for $2,491.44, due February 22, 1868, indorsed by J. K. Place & Co., and discounted for them by said William Endall.
249 None.	First National Bank	New York City; bankers .	25,000 00	New York City, November and December, 1867.	For two notes of the Place Sugar Refinery, one for $15,000, due Nov. 28, 1867, and one for $10,000, due Dec. 28, 1867, both indorsed by said Ja's K. Place & Co., for the accommodation of the Place Sugar Refinery, and discounted for it by said bank, and now past due and unpaid.

None	Manufacturers' National Bank.	New York City; bankers...	20,000 00	New York City, Dec., 1867 ..	For four notes of the Place Sugar Refinery, each for $5,000, two due Dec. 24, 1867, and two due Dec. 15, 1867, all of which were indorsed by said Ja's K. Place & Co., for the accommodation of the said Place Sugar Refinery, and discounted for it by said bank, and now past due and unpaid.
285	W'm F. Weld & Co., individual names not known, and cannot be ascertained.	Boston, Mass.; merchants...	Not known and cannot be ascertained.	Boston, Massachusetts.....	In open account for duties on pepper purchased of them in bond by Ja's K. Place & Co., which duties were paid by them, and should have been paid by Ja's K. Place & Co., for which it is believed they have not been repaid in full, and the amount is open for adjustment.
250 None .	Spence, Montague & Co., composed of James C. Spence, W'm W. Spence, Debrill P. Montague, and Andrew Reid.	New York City; merchants.	$62,657 35	New York City, Nov. and Dec., 1867.	For twelve notes of the Place Sugar Refinery, indorsed by Ja's K. Place & Co., for its accommodation, and given by the Place Sugar Refinery to Spence, Montague & Co., in payment for merchandise purchased by it, as follows: one for $6,813.10, due Nov. 20, 1867; one for $5,844.25, due Nov. 27, 1867; and ten each for $5,000, due, respectively, one Nov. 21, 1867; two Nov. 22, 1867; two Nov. 26, 1867; two Nov. 29, 1867; two Dec. 2, 1867, and one Dec. 5, 1867.
251 None .	C. P. Fischer & Co., composed of Cha's P. Fischer, Ernest Fischer, & Robert Whitman.	New York City; merchants	92,450 17	New York City, Oct., 1867 .	For nine notes of the Place Sugar Refinery, indorsed by Ja's K. Place & Co., for its accommodation, and given by the Place Refinery to C. P. Fisher & Co., in payment for merchandise purchased by it, as follows: one for $12,450.17, due Dec. 23, 1867; eight for $10,000 each, due respectively Dec. 3d, 12th, 15th, 20th, 26th, 30th, 1867, and January 3d and 6th, 1868, past due and unpaid, now in suit, to which defences have been made claiming a partial failure of consideration.
None	Thomas J. Owen	New York City; merchants	70,656 51	New York City, September and October, 1867.	For twelve notes of the Place Sugar Refinery indorsed by Ja's K. Place & Co., for its accommodation, and given by the Place Sugar Refinery in payment for merchandise purchased by it, as follows: one for $5,878, due Nov. 26, 1867; one for $5,878.81, due Nov. 28, 1867; one for $5,878.80, due Nov. 30, 1867; one for $5,878, due December 2, 1867; one for $5,889, due Dec. 5, 1867; one for $5,890.93, due December 6, 1867; one for $5,895, due Dec. 10, 1867; one for $5,890.94, due Dec. 12, 1867; one for $5,896.51, due Dec. 12, 1867; one for $5,889, due Dec. 13, 1867; one for $5,896.52, due Dec. 15, 1867; one for $5,895, due Dec. 16, 1867; all unpaid.
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None	Metropolitan National Bank	New York City; bankers ..	106,182 44	New York City, December, 1867.	For four notes of E. B. Place, indorsed by James K. Place & Co., and given to said bank in payment for notes of James K. Place & Co., indorsed by E. B. Place for the accommodation of Ja's K. Place & Co., two for $25,000 each, due Dec. 14th and 29th, 1867; and one for $50,000, due Nov. 27th, 1867, said notes of E. B. Place being as follows, to wit: one for $25,889.38, due June 7th, 1868; one for $26,326.88, due Sept 7th, 1868; one for $26,764.38, due Dec. 7th, 1868; one $27,201.88, due March 7th, 1869; the notes of James K. Place & Co., for which these were given in payment, were retained as further security.
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SCHEDULE A, No. 3—Continued.

Creditors whose claims are unsecured.

Reference to ledger or voucher.	Names of creditors.	Residences and occupations.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person; and, if so, with whom.
None	The National Park Bank....	New York City; bankers...	$16,000 00	New York City, December 10, 1867.	For four notes of E. B. Place, indorsed by J. K. Place & Co., each for $4,000 and interest, falling due, respectively, June 24th, 1868; Sept. 24th, 1868; Dec. 24, 1868, and March 24th, 1869, given in payment of notes of Ja's K. Place & Co., of like amounts, which were indorsed by E. B. Place for their accommodation, the notes of Ja's K. Place & Co. being retained as further security.
254 None.	The Butchers' and Drovers National Bank.	New York City; bankers ..	15,269 24	New York City, February 3d, 1868.	For three judgments recovered Feb. 3d, 1868, in the supreme court of the State of New York, one for $5,087.80, one for $5,090.72, and another for $5,090.72; which judgments were severally recovered on the three notes of James K. Place & Co., each for $5,000, payable four months after date two dated July 17th, 1867, and one July 20th, 1867, which were cashed by P. J. & A. Armour, and discounted by said bank.
None 255	Brown Brothers & Co., composed of James Brown, Stewart Brown, James M. Brown, Cha's D. Dickey, Howard Potter, John Crosby Brown, Clar'nce S. Brown, Mark W. Challet, Francis A. Hamilton, Stewart Henry Brown, and Herman Hoskin.	New York City; bankers...	139,820 00 or thereabouts, the exact am't of which is not known and cannot be ascertained, and is subject to adjustment, by reason of the matters alleged in the last column.	New York City, during the year 1867.	This debt arose out of letters of credit granted by Brown Bro's & Co. to James K. Place & Co., under which James K. Place & Co. purchased coffee at Rio de Janeiro, in the empire of Brazil, and by special agreement with Brown Bro's & Co. the coffee was shipped to them and pledged to them as security for the payment of the bills of exchange drawn under the letter of credit on Brown, Shipley & Co., of Liverpool, composed of the same persons as Brown Bro's & Co., and accepted by them; by the arrangement between the parties, the coffee was placed in the hands of Ja's K. Place & Co. to be sold, they to account for the proceeds by providing for the payment of the bills of exchange before maturity; the coffee thus pledged consisted of 4,432 bags, imported per ship Leonore, 1,018 bags of which has been taken possession of by said Brown Bro's & Co.; 361 bags of coffee, imported per ship Bravo, the whole of which has been taken possession of by Brown Bro's & Co.; 1,056 bags of coffee, imported by ship Georgina, sold by James K. Place & Co., the proceeds of which sale was taken by Brown Bro's & Co.; and this debt also arose under a similar letter of credit, under which 539 mats of coffee was purchased by James K. Place & Co., at Singapore, which was shipped per ship Martha Rideout, consigned
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257					to Brown Bro's & Co., as security for the bill of exchange drawn for the purchase of the coffee, which have been or are to be accepted by said Brown, Shipley & Co.; this coffee has not arrived, and is insured in the Atlantic Mutual Insurance Company, the policies of insurance being held by Brown Bro's & Co. That a suit has been instituted by the said Brown Bro's & Co. in the supreme court of the State of New York, wherein it has been adjudged that the said Brown Bro's & Co. are entitled to the coffee so taken by them, and to the proceeds of the coffee imported by the ship Leonore, not received and collected by Ja's K. Place & Co., and mixed with their other funds, amounting to about $15,000, and that they recovered judgment against the petitioners for $83,653.89, which judgment was entered on the 13th of February, 1868.
None	New York agency of the Bank of British North America. Who are individual parties composing or interested in this agency or bank, and whether it is a partnership or a corporation, is unknown and cannot be ascertained.	New York City; bankers...	Not known and cannot be ascertained.	New York City, in the year 1867.	This debt arises out of similar letters of credit as above mentioned in relation to the indebtedness of Brown Bro's & Co., and under similar agreements as with Brown Bro's & Co., by which the coffee purchased was pledged to secure the payment of bills of exchange drawn for the purchase of said coffee under which 3,323 bags of coffee were purchased by Ja's K. Place & Co. at Rio de Janeiro aforesaid, and imported per ship Bravo, the whole of which or the proceeds of the sale of which have been received by the said New York agency of the said bank; also 5,497 bags of coffee was purchased by Ja's K. Place & Co., at Rio de Janeiro, and imported per ship Fidelia, the whole of which has been taken possession of by said agency of said bank. Said James K. Place & Co. on the 23d of Dec., 1867, gave an order for the purchase of coffee, to be paid for by said letters of credit; of what coffee has been purchased pursuant to said order is not known, but if any has been purchased it is pledged as aforesaid for the payment of the bills of exchange drawn for the purchase thereof.
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None	Duncan, Sherman & Co., composed of William Butler Duncan, David Duncan, and William Watts Sherman, survivors of William A. Mackintosh, deceased.	New York City; bankers...	Am'nt not known and cannot be ascertained.	New York City, May, 1867...	This debt arises out of similar letters of credit as above mentioned in relation to the indebtedness of Brown Bro's & Co., and under similar agreements as with Brown Bro's & Co., by which the property purchased was pledged to secure the payment of the bills of exchange drawn for the purchase thereof under these letters of credit. Orders were given by James K. Place & Co., on July 30, 1867, for the purchase of pepper, nutmegs, and mace in the East Indies. It is not known whether any purchases were made in pursuance of said orders; if they have been, and bills of exchange drawn for the payment thereof, the goods purchased are consigned and pledged to Duncan, Sherman & Co., as security for the payment of such bills; under these letters of credit 4,677 bags of coffee were purchased by James K. Place & Co., at Rio de
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SCHEDULE A, No. 3—Continued.

Creditors whose claims are unsecured.

Reference to ledger or voucher.		Names of creditors.	Residences and occupation.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person; and, if so, with whom.
						Janeiro, and imported per ship Nautilus and pledged to Duncan, Sherman & Co., to secure the payment of the bills drawn for the purchase thereof, of which Duncan, Sherman & Co. have taken possession of 3,030 bags and the skimmings and sweepings thereof. Under these letters of credit 1,123 bags of coffee were purchased by said James K. Place & Co. at Rio de Janeiro, and imported per ship Bravo, pledged to said Duncan, Sherman & Co. as security for the payment of the bills drawn for the purchase thereof, the whole of which has been taken possession of by said Duncan, Sherman & Co. Under these letters of credit 4,044 bags of coffee were purchased at Rio de Janeiro by James K. Place & Co., and imported per ship Georgiana and pledged to Duncan, Sherman & Co. for the payment of the bills of exchange drawn for the purchase thereof and sold by Ja's K. Place & Co., to arrive, and on arrival the coffee was delivered to Duncan, Sherman & Co., pursuant to such sale, and the whole proceeds of such sale claimed and taken by them. Also, under these letters of credit, 750 bags of coffee were purchased at Rio de Janeiro by James K. Place & Co., and imported per ship North America, pledged to said Duncan, Sherman & Co. as security for the payment of the bills of exchange drawn for the payment thereof, the whole of which has been taken possession of by said Duncan, Sherman & Co. Said Duncan, Sherman & Co. commenced an action in the supreme court of the State of New York against the petitioners in reference to the coffee imported per ship Nautilus, in which it has been adjudged that they are entitled to the proceeds of the sale of the said coffee, not collected by Ja's K. Place & Co. on the 22d of November, 1867, amounting to $31,227.01, which was in the hands of the receiver appointed in said action.
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963	222	J. L. Phippe & Co., composed of John Lewis Phippe, Charles Paul Phippe, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips.	New York City; bankers...	$116,215 44	New York City, June 22, 1867	This debt arises on similar letters of credit, as above mentioned, in relation to the indebtedness of Brown Bro's & Co. and under similar agreements as with Brown Bro's & Co., by which the property purchased was pledged to secure the payment of the bills of exchange drawn for the purchase thereof. Under this letter of credit Ja's K. Place & Co. purchased at Rio de Janeiro 4,500 bags of coffee imported per ship Naiad, pledged to said J. L.

264						Phipps & Co. to secure the payment of the bills of exchange drawn for the purchase thereof and placed in the hands of James K. Place & Co. for sale, they to account and apply the proceeds of the sale to provide for said bills of exchange, of which coffee 19 bags was taken possession of by said J. L. Phipps & Co.; an assignment has also been made of all the individual property of James K. Place, which embraces the property mentioned in the schedules hereunto annexed, marked "C," to Henry J. Cullen, j'r, under proceedings taken before the Hon. George G. Barnard, a justice of the supreme court of the State of New York, pursuant to the laws of said State, by said J. L. Phipps & Co. against said James K. Place, the avails of which will be obtained by said J. L. Phipps & Co. on account of their said debt. On these demands they have recovered judgment against your petitioners in the supreme court of the State of New York, on the 27th day of February, 1868, for $116,215.44
265	None..	Dabney, Morgan & Co., composed of Charles H. Dabney, John Pierrepont, George H. Morgan, and James J. Goodwin.	New York City; bankers...	Am'nt not known, and cannot be ascertained.	New York City, spring of 1867.	This debt arises on similar letters of credit as above mentioned, in relation to the indebtedness to Brown Bro's & Co. and under similar agreements as with Brown Bro's & Co., by which the property purchased was pledged to secure the payment of the bills of exchange drawn for the purchase thereof. Under these letters of credit James K. Place & Co. purchased at Shanghai, China, 3 163 packages of tea, now in course of importation per ship Americus, but not arrived, consigned and pledged to Dabney, Morgan & Co. as security for the bills of exchange drawn for the purchase thereof. Under these letters of credit James K. Place & Co., on the 29th of June, 1867, gave an order for the purchase of teas at Foo Chow, China, and on the 7th of November, 1867, gave an order for the purchase of coffee at Rio de Janeiro. It is not known whether any purchases have been made pursuant to these orders or either of them, but if they have, the property purchased is pledged to Dabney, Morgan & Co. to secure the payment of the bills of exchange drawn for thepurchase thereof.
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None		Bunge, Burlage & Co., composed of Gustavus Bunge, Rudolph C. Burlage, and Jacob Denenfolile.	City of New York; bankers.	Am nt not known, and cannot be ascertained.	New York City, April 25, 1867.	This debt arose under similar letters of credit, as above mentioned, in relation to the indebtedness of Brown Bro's & Co., by which the property purchased was pledged to secure the payment of the bills of exchange drawn for the purchase thereof. Under these letters of credit James K. Place & Co. purchased at Batavia in the island of Java, 6,000 piculs of coffee, imported by sh'p Heinath, and consigned and pledged to said Bunge, Burlage & Co. to secure the payment of the bills of exchange drawn for the purchase thereof, which coffee has arrived and been sold by said Bunge, Burlage & Co., but no accounts respecting the same has yet been made. Said James K. Place & Co.,
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* In the original, underneath the above figures, 116,215.44, were the figures 117,000, which have been erased.

SCHEDULE A. No. 3.—Continued.

Creditors whose claims are unsecured.

Reference to ledger or voucher.	Names of creditors.	Residences and occupations.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person; and, if so, with whom.
					under said letters of credit, gave an order on the 2d of July, 1867, for the purchase of 6,000 piculs of coffee at Batavia, Java, which has been purchased, and is consigned and pledged to Bunge, Burlage & Co. to secure the payment of the bills of exchange drawn for the purchase thereof, the amount of which is not known. Said James K. Place & Co., under said letters of credit, gave an order on the 2d of July, 1867, to purchase 150 piculs of nutmegs and 50 piculs of mace; and also on the 13th of September, 1867, to purchase 250 piculs of nutmegs and 5 to 6,000 piculs of coffee. It is not known that any purchases have been made under these orders; if there has, the goods purchased are consigned to Bunge, Burlage & Co. to secure the payment of the bills of exchange drawn for the purchase thereof.
268					
None.....	Simon de Visser.....	City of New York; banker..	Amn't not known, and cannot be ascertained.	New York City, June 1, 1867.	This debt arises on similar letters of credit, as above mentioned, in relation to the indebtedness to Brown Bro's & Co., and under similar agreements as with Brown Bro's & Co., by which the property is pledged to secure the payment of the bills of exchange drawn for the purchase thereof. Under this letter of credit James K. Place & Co., on June 1st, 1867, gave an order for the purchase of teas at Yokohama, Japan. It is not known that any purchases were made under this order; if they have been, the goods purchased are consigned and pledged to Simon de Visser to secure the payment of the bills of exchange drawn for the purchase thereof.
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501.....	Same.....	.....same.....	3 03	New York City, during the year 1867.	For cash lent, in open account.
	Ephraim B. Place.....	New York City; no business	182,691 90	New York City, during the years 1865 and 1867.	For notes of James K. Place & Co., for $30,000, dated Dec. 1, 1865, payable five years from date, given for the interest of E. B. Place, in the firm of Place & Turlay, as endorser of four notes of James K. Place & Co., endorsed by him for their accommodation, and discounted by the Metropolitan Nation'l Bank, the payment of which has been provided for by E. B. Place as endorser, to wit: two notes for $25,000 each, dated September 27, 1867, due Dec. 14th and 29th, '67; one for $50,000, dated Sept. 10, 1867, due Nov. 27, 1867; one for $20,000, dated Oct. 4, 1867, due Dec. 21, 1867; also as endorser of the note of James K. Place &
270					

					Co., given to the Manufacturers' National Bank for the loan of money, and dated May 31, 1867, for $25,000, payable on demand; also as endorser of the note of Carver, Wendover & Co., for $6,900, due Dec. 31, 1867, received by James K. Place & Co. for the sale of goods, and endorsed for their accommodation; also as endorser of the note of Shields & Boucher, due Nov. 26, 1867, for $791.90, received by James K. Place on the sale of goods by them, and endorsed for their accommodation.
271	Alfred Salamon	New York City; merchant..	$5,000 or thereabouts claimed, which claim is resisted.	If at all, at Boston, Massachusetts, during the year 1867.	Ja's K. Place & Co. sold in January and February, '67, to John A. Cooper 67 half chests of tea, 36 half chests of which they afterwards replevied in Boston, Massachusetts, as having been fraudulently obtained from them; they were claimed by A. Salamon as his property, and he has commenced an action at Boston, Massachusetts, against James K. Place & Co., to recover the value thereof, which suit is still pending and undetermined.

There is no judgment, bond, bill of exchange, or promissory note recovered for, made, connected with, or appertaining to any or either of the above-mentioned claims, excepting or otherwise as is therein particularly specified.

JA'S K. PLACE,
J. D. SPARKMAN,
Petitioners.

SCHEDULE A.

Liabilities on notes or bills discounted which ought to be paid by the drawers, makers, or acceptors.

Reference to ledger or voucher.	Names of holders, as far as known.	Place of residence and occupation.	Place where contracted.	Amount.	Nature of liability, whether same was contracted as co-partner or joint contractor, or with any other person; and, if so, with whom.
None	National Bank of Commerce	New York City; bankers ...	New York City	$10,900 00	For note of Carver, Wendover & Co., of St Louis, Missouri, for $6,900, due Dec. 31, 1867, and of Burton, Bently & Co., of New York, for $4,000, due Dec. 8, 1867, both given for goods sold by James K. Place & Co. to them, and endorsed by James K. Place & Co., and discounted by said bank.
None	Bank of America	New York City; bankers ...	New York City	2,709 95	For note of A. A. Gould & Co, of New York, due December 13, 1867, given for goods purchased of James K. Place & Co., and endorsed by and discounted for them by said bank.
None	National Park Bank	New York City; bankers ...	New York City	1,783 34	For note of Shields & Boucher, of Pittsburgh, Pennsylvania, for $790 90, due November 26, 1867, and note of A. A Gould & Co, of New York, due Feb'y 8, 1868, for $1,011 44, both given for goods purchased of James K. Place & Co, endorsed by and discounted for them by said bank.
273					
None	American Exchange National Bank.	New York City; bankers...	New York City	9,862 50	For two notes of the Place Sugar Refinery of New York, one for $5 000 and one for $4,862.50, both due December 31, 1867, given in exchange for the notes of James K. Place & Co., of like amount, and falling due at the same time. Endorsed by James K. Place & Co., and discounted for them by said bank.
None	William Endall	New York City; merchant..	New York City	8,699 48	For note of Bentley, Burton & Co., of New York, $1,208.04; due Dec. 15, 1867; and another of said firm for $5,000, due Dec. 4, 1867; one of A. A. Gould & Co., of New York, for $2,491.44, due Feb'y 22d, 1868, all given for goods purchased of James K. Place & Co., and endorsed by them and discounted for them by said Endall.
274 None.	Fourth National Bank	New York City; bankers...	New York City	25,000 00	For two notes of the Place Sugar Refinery of New York, one for $15,000, due Nov. 28, 1867, and one for $10,000, due Dec. 28, 1867, both endorsed by James K. Place & Co., for the accommodation of the Place Sugar Refinery, and discounted for it by said bank.
None	Manufacturers' National Bank.	New York City; bankers...	New York City	20,000 00	For four notes of the Place Sugar Refinery of New York, each for $5,000; two due Dec. 24, 1867, and two due Dec. 15, 1867; all of which were endorsed by James K. Place & Co., for the accommodation of the Place Sugar Refinery, and discounted for it by said bank.
None	Spence, Montague & Co., composed of James C.	New York City; merchants.	New York City	62,657 35	For twelve notes of the Place Sugar Refinery, given by it for goods purchased, and endorsed for its accommodation

275	Spence, W'm W. Spence, Dibrell P. Montague, and Andrew Reid.				by James K. Place & Co.; one for $6,813.10, due Nov. 20, 1867; one for $5,844.25, due Nov. 27, 1867; and ten, each for $5,000, due respectively, one Nov. 21, 1867; two Nov. 23, 1867; two Nov. 26, 1867; two Nov. 29, 1867; two Dec. 2, 1867; and one Dec. 5, 1867.
None	C. P. Fischer & Co., composed of Charles P. Fischer, Ernest Fischer, and Robert Whitman.	New York City; merchants.	New York City	92,450 17	For nine notes of the Place Sugar Refinery, given for the purchase of merchandise, and endorsed by James K. Place & Co., for its accommodation, as follows; one for $12,450.17, due Dec. 23, 1867; eight for $10,000 each, due respectively Dec. 3, 12, 15, 20, 26, and 30, 1867, and January 3d and 6th, 1868.
None	Thomas J. Owen	New York City; merchants.	New York City	70,656 51	For twelve notes of the Place Sugar Refinery, given on the purchase of merchandise by it, and endorsed by James K. Place & Co., for its accommodation, as follows; one for $5,878, due Nov. 26, 1867; one for $5,878.81, due Nov. 28, 1867; one for $5,878.80, due Nov. 30, 1867; one for $5,878, due Dec. 2, 1867; one for $5,889, due Dec. 5, 1867; one for $5,890 93, due Dec. 6, 1867; one for $5,895 due Dec. 10, 1867; one for $5,890.94, due Dec. 12, 1867; one for $5,896.51, Dec. 12, 1867; one for $5,889, due Dec. 13, 1867; one for $5,896.52, due Dec. 15, 1867; one for $5,895, due Dec. 18, 1867.
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There is no judgment, bond, bill of exchange, promissory note recovered for, connected with, or appertaining to any or either of the above-mentioned claims, excepting or otherwise as is therein particularly specified.

JA'S K. PLACE,
J. D. SPARKMAN,
Petitioners.

SCHEDULE A.

Accommodation paper.

Reference to ledger or voucher.	Names of holders.	Residence of holders and particulars of notes or bills.	Place where contracted.	Amount.	Whether liability was contracted as copartner or joint contractor, or with any other person; and, if so, with whom.
None	Fourth National Bank	New York City: Two notes of the Place Sugar-Refinery of New York; one for $15,000, due Nov. 28, 1867, and one for $10,000, due Dec. 28, 1867.	New York City	$25,000 00	As endorsers in the copartnership name of James K. Place & Co.
None	Manufacturers' National B'k	New York City: Four notes of the Place Sugar-Refinery of New York, each for $5,000; two due Dec. 24, 1867, and two due Dec. 15, 1867.	New York City.	20,000 00	As endorsers in the copartnership name of James K. Place & Co.
None	Spence, Montague & Co., composed of James C. Spence, William W. Spence, Dibrell P. Montague, and Andrew Reid.	New York City: Twelve notes of the Place Sugar-Refinery: one for $6,813.10, due Nov. 20, 1867; one for $5,844.25, due Nov. 27, 1867; and ten each for $5,000, due, respectively, one Nov. 21, 1867; two Nov. 22, 1867; two Nov. 26, 1867; two Nov. 29, 1867; two Dec. 2, 1867; and one Dec. 5, 1867.	New York City.	62,657 35	As endorsers in the copartnership name of James K. Place & Co.
None	C. P. Fischer & Co., composed of Charles P. Fischer, Ernst Fischer, and Robert Whitman.	New York City: Nine notes of the Place Sugar-Refinery; one for $12,450.17, due Dec. 23, 1867, and eight for $10,000 each, due, respectively, Dec. 3d, 12th, 15th, 20th, 26th, and 30th, 1867, and January 3d and 6th, 1868.	New York City.	92,450 17	As endorsers in the copartnership name of James K. Place & Co.
278 None	Thomas J. Owen	New York City: Twelve notes of the Place Sugar-Refinery, as follows: one for $5,878, due Nov. 26, 1867; one for $5,878.81, due Nov. 28, 1867; one for $5,878.80, due Nov. 30, 1867; one for $5,878, due Dec. 2, 1867; one for $5,889, due Dec. 5, 1867; one for $5,890.93, due Dec. 6, 1867; one for $5,895, due Dec. 10, 1867; one for $5,890.94, due Dec. 12, 1867; one for $5,896.51, due Dec. 12, 1867; one for $5,889, due Dec. 13, 1867; one for $5,896.52, due Dec. 15, 1867; one for $5,895, due Dec. 18, 1867.	New York City	70,656 51	As endorsers in the copartnership name of James K. Place & Co.

There is no judgment, bond, bill of exchange, or promissory note recovered for, made, connected with, or appertaining to any or either of the above-mentioned claims, excepting or otherwise as is therein particularly specified.

JA'S K. PLACE,
J. D. SPARKMAN,
Petitioners.

279 *Oath to Schedule A.*

UNITED STATES OF AMERICA,
Southern District of New York, ss:

On this twenty-seventh day of February, A. D. 1868, before me personally came James K. Place and James D. Sparkman, the persons mentioned in and who subscribed to the foregoing petition and schedule marked "A," respectively, and who, being by me first duly sworn, did declare the said schedule to be a statement of all their debts, &c., in accordance with the act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867.

JOHN FITCH, *Register.*

Schedule B, No. 1.

Statement of all real and personal estate and effects whatever, which are now in possession, enjoyment, or under the control of the petitioner, or which are held by any other person in trust for his use, or to the possession or enjoyment of which he is entitled at the date of filing the petition.

INTEREST IN LANDS.

Particular description of all real estate owned by the petitioner, or held by him, and whether under contract or lease. None.

Encumbrances thereon, if any, and dates thereof. None.

Statement of all particulars relating thereto. None.

Estimated value. None.

JAMES K. PLACE,
J. D. SPARKMAN,
Petitioners.

Schedule B, No. 2.

PERSONAL PROPERTY.

A. Cash on hand. None.

B. Bills of exchange, promissory notes, or securities of any description, (each to be set out separately.) None.

C. Stock in trade, in our business of dealers in teas and groceries, at the city of New York, of the value of nothing.

D. Household goods and furniture, household stores, wearing-apparel, and ornaments of the person. None.

E. Books, prints, and pictures. None.

F. Horses, cows, sheep, and other animals. None.

G. Carriages and other vehicles. None.

H. Farming-stock and implements of husbandry. None.

I. Shipping and shares in vessels. None.

K. Machinery, fixtures, and apparatus used in business, with the place where each is situated. None.

L. Goods or personal property of any other description, with the place where each is situated. None.

JAMES K. PLACE,
J. D. SPARKMAN,
Petitioners.

Schedule B, No. 3.

CHOSES IN ACTION.

A. Debts due petitioner on open account. None.

B. Stocks in incorporated companies, and interest in joint-stock companies. None.

C. Policies of insurance. None.

D. Unliquidated claims of every nature, with their estimated value. None.

JAMES K. PLACE,
J. D. SPARKMAN,
Petitioners.

280 SCHEDULE B.

Property in reversion, remainder, or expectancy, including property held in trust for the petitioner, or subject to any power or right to dispose of, or to charge.

General interest.	Particular description.	Supposed value of my interest.
Interest in land. None.	Real estate and leasehold property, with locality, names, and description of parties now enjoying the same, and the value thereof; also the nature of my interest therein, and from whom and in what manner it is derived. None.	Dollars. Cents.
Personal property. None.	Personal property, with locality, names, and descriptions of persons now enjoying the same; also the nature of my interest therein, and from whom and in what manner it is derived. None.	
Property in money, stock, shares, bonds, annuities, &c., &c. None.	Annuities, money in public or other funds, shares in railroad and other companies, showing in whose names the same are standing, with names and descriptions of persons now enjoying the same; also the nature of my interest therein, and from whom and in what manner it is derived. None.	
Rights and powers. None	Rights and powers, wherein I or any other person or persons in trust for me or for my benefit have any power to dispose of, charge, or exercise. None.	
Property heretofore conveyed for benefit of creditors.	Description of property of debtor heretofore conveyed for benefit of creditor by deed of assignment or otherwise, date of such deed or instrument of conveyance, with name and address of party to whom made, amount realized from same, and the disposal of such property, so far as known to petitioner.	Amount realized from proceeds of property conveyed. Dollars. Cents. 12,208 41
What portion of debtor's property has been conveyed by deed of assignment, or otherwise, for 281 benefit of creditors; date of such deed, name and address of party to whom conveyed, amount realized therefrom, and disposal of same, so far as known to the petitioner.	The petitioners, James K. Place and James D. Sparkman, by deed of assignment, bearing date the 23d day of December, 1867, and recorded in the office of the clerk of the city and county of New York, in the State of New York, in vol. 12 of the records of assignments, page 705, conveyed to Lewis W. Burritt, jr., and Thomas T. Sheffield, severally, residing in the city of New York, all their property and effects, joint and several, of every description, in trust, to convert the same into money, and to pay and divide the proceeds thereof to and among the creditors of the said petitioners, without priority or preference, except such as might be given by the laws of the State of New York or by the United States.	

The property of the firm of James K. Place & Co., conveyed by said assignment, is as follows:

J. K. PLACE.
J. D. SPARKMAN.
Petitioners.

282 *Inventory or schedule of stock of goods of James K. Place & Co., December 27, 1867.*

		Price.	Duty.	Gross amount.
	60 bags Rio coffee, ex S't Ursula, 955, 396, 9,457	13		1, 229 41
	60 bags in bond, 8,532		426 60	
478	bags Rio coffee, ex Talesman, 76 662, 767, 75,895	13		9, 866 35
	436 bags in bond, 73,791		3, 689 55	
503	bags Rio coffee, ex Star of Devon, 796, 76, 796, 78,880	13		10, 254 40
	445 bags in bond, 59,336		2, 966 80	
379	bags Rio coffee, ex Acme, 60,034, 600, 59 434	12½		7, 280 66
	388 bags in bond, 21,975		1, 098 75	
840	packages Mocha coffee, in Salem, 32,273, 2,399, 31,874	25		7, 718 50
106	packages Mocha coffee, in New York, 5,001, 335, 4,666	25		1, 166 50
	925 packages in bond, 35,072		1, 753 60	
498	bags African ginger, ex Rescue, 55,150 1,103, 540, 47	10		5, 404 70
	498 bags in bond, 55 496		2, 744 80	
	3 cases nutmegs, ex Geo. Canning, 227 lbs. net	90		204 30
	3 cases in bond, 288½ lbs		144 95	
398	bags Singamone pepper, ex Geo. Canning, 38,327, 766, 37,561	22		8, 263 42
	278 bags in bond, 27,143		4, 071 45	
	80 bags Singamone pepper, ex Alexander, 7,893, 158, 7,735, in bond	6½		483 43
4	Sumatra, 940, 13, 627	22		137 94
	30 bags Race ginger, ex Ashburton, 2,402, 48, 2,354	10		235 40
	5 bags Cassia, 354, 10, 344	10		34 40
	16 bags spice dust, 1,751, 16, 1,735	5		86 75
	12 bags skimmings, 1,478, 12, 1,466	4		58 64
283	8 bags pepper dust, 805, 8, 797	4		31 88
	17 mats Java coffee, 1,149, 11, 1,138	21		238 98
	1 half-chest Johann Mam,* 77, 55, 15, 40	60		24 00
	57 in bond, 6,081		1, 520 25	
	Broadwater, 97 in bond, 6,360		1, 590 00	
	1 half-chest Gunpowder, ex Lot 5,* 60, 78, 17, 61	80		48 80
	1 half-chest Japan, ex Lorton,* 61, 52, 15, 37	60		22 20
	1 half-chest Imperial, ex J. N. Cushing, W. H. W.* 4, 40, 16, 24	70		16 80
	7 half-chests Imperial, ex J. N. Cushing, A. & E. B.,* 4, 484, 112, 342	50		171 00
	1 mat Singapore Java coffee, 39	20		7 80
	2 bags Java skimmings, 219, 2, 217	12		26 04
	4 bags Java skimmings, M., 435, 4, 431	10		43 10
	1 bag Rio sweepings, ex Svaners, 80, 3, 77	5		3 85
	1 bag Rio store sweepings, 95, 3, 92	5		4 60
	1 bag sample coffee, 153, 2, 154	5		7 65
	9 bags odds and ends, 550 lbs	5		27 50
	68 half-chests Souchong, ex Challenger, 4,979, 1, 020, 3,539	85		3, 025 15
	65 in bond, 3,663		915 75	
	6 half-chests Japan Quick, 2, 4, 381, 102, 279	52		145 08
	10 half-chests Japan Quick,* 5, 622, 160, 462	50		231 00
	8 half-chests Japan,* 7, 550, 136, 414	52		215 28
	19 half-chests Japan,* 8, 1, 172, 323, 949	50		474 50
	61 half-chests Japan Oolong, ex Kate Carnie, 364, 3, 459, 854, 2,605	55		1, 432 75
	3 half-chests Hyson, Grasmere,* 66, 246, 84, 162	80		129 60
	7 half-chests Imperial, ex Horatio,* 67, 512, 105, 407	50		203 50
	20 cases Gunpowder, [G.] 1,720	35		602 00
284	2 boxes Gunpowder, 8	100		88 00
	4 lbs. Japan, ex ,* 1,003, 72	67		48 24
	2 half-chests, ex ,* 131-6, 274, 75, 199	56		111 44
	1 half-chest Gunpowder, G,* 143, 53, 13, 40	56		92 40
	2 half-chests, 48–53, 106, 30, 76	60		45 60
	1 half-chest Oolong, ex Amarinth,* 30, 59, 15, 44	40		17 60
	1 half-chest Oolong, Constantia,* 191, 55, 15, 40	40		16 00
	1 half-chest Souchong, ex Amarinth,* 2, 59, 14, 45	40		18 00
	1 half-chest Japan, ex Benefactor,* 18, 50, 13, 37	56		20 72
		Currency.		
1, 850	heavy linen bags, @ 27 c'ts	$499 50		
225	light linen bags, @ 20 c'ts	45 00		
2, 050	empty Rio bags, @ 10 c'ts	205 00		
40	empty gunny bags, @ 20 c'ts	8 00		
200	pepper sld. bags, @ 8 c'ts	16 00		
250	empty sd. @ 15 c'ts	37 50		
500	empty Lagura, @ 15 c'ts	75 00		
200	empty Maricabo, @ 10 c'ts	20 00		
1, 500	empty Java mats, @ 10 c'ts	150 00		
	1 half-chest Hyson, Borealis,* 220, 73, 27, 46	80		36 80
	10 half-chests Young Hyson,* 251, 880, 250, 630	90		567 00
	1 half-chest Young Hyson,* 216, 79, 25, 64	90		57 60
	2 half-chests Imperial,* 213, 158, 48, 110	99		99 00
	1 half-chest Gunpowder,* 77, 68, 16, 52	80		41 60
	1 half-chest Young Hyson,* 219, 73, 17, 56	50		28 00
285	1 half-chest Young Hyson,* 229, 69, 15, 54	70		37 80
	2 half-chests Imperial,* 236, 140, 32, 108	60		64 80

Inventory or schedule of stock of goods of James K. Place & Co., December 27, 1867—Continued.

		Price.	Duty.	Gross amount.
	1 half-chest Young Hyson,* 240, 84, 16, 68	50		34 00
				Sales-room.
	3 boxes sample tea, 249	40		99 60
	1 half-chest Hyson, Borealis,* 245, 69, 25, 44	55		24 20
	849 bags African ginger, ex Ann Elizabeth, 82,905, 1,658, 81,247, in bond	4½		3,656 11
	{ 100 bags ex Rescue			
	{ 174 bbls			
	30,422 lbs	10		3,042 20
	In bond, 31,267		1,563 35	
	150 bags Race ginger, ex Sunnel, 11,819, 450, 11,369, in bond	4		456 76
	392 bags Race ginger, ex Lord Palmerston, 41,066, 521, 40, 245	9½		3,823 27
	278 packets Race ginger, ex Ann Roylston, 5,700, 250, 5, 450	9½		517 75
	2,403 packets ex Childwickbury, 45, 754, 2,163, 43,591	9½		4,141 14
	Robin Hood, in bond, 43 lbs		10 75	
	Refund duty on coffee, ex Express			107 61
	Refund duty on coffee, ex Dolphine			339 80
	Refund duty on tea, ex Albatross			750 75
	Refund duty on tea, ex Thomas Dryden			100 00
	Refund duty on tea, ex Endeavor			500 00
	1 wardrobe 25 00			
	1 wardrobe up-stairs, 3rd story 25 00			
	Piece carpet 5 00			
	2 looking-glasses 2 00			
	1 Chinese junk in case 10 00			
	Oil-cloth and carpet, (room) 10 00			
286		Currency.		
	1 piece	$5 00		
	Coffee-drawers, sales-room	75 00		
	Do. do. small do	25 00		
	Elevator-engine boiler	2,500 00		
	Reduced to gold at 1.40	4,818 25		3,441 61
	742 empty Java mats, no value			
	2 donnant scales $90 00	180 00		
	3 portable 6 50	19 50		
	2 2-wheel trucks 3 00	6 00		
	3 4-wheel trucks 11 00	33 00		
	2 sugar-mills 20 00	40 00		
	2 fanning-mills 10 00	20 00		
	Slings, crowbars, shovels, &c	30 00		
	Thomas tools	200 00		
	2 sitting-desks	10 00		
	1 upright do	5 00		
	1 table	2 00		
	1 bbl. for sample	25		
	2 chairs	1 00		
	1 stool	50		
	2 tea-kettles	5 00		
	1 revolving tea-table	8 00		
	1 revolving tea-table, 4 story	8 00		
	1 tea-rack with drawers	10 00		
287	1 tea-rack with drawers up-stairs	10 00		
	2 small tea-scales	4 00		
	Cups, spoons, tea-cans	5 00		
	3 iron safes	300 00		
	6 counting-room desks	75 00		
	2 book-racks and drawers	25 00		
	1 small upright desk	3 00		
	1 desk and case for letters	3 00		
	1 letter-press and stand	10 00		
	1 mahogany case samp'es	15 00		
	1 desk-stool	2 00		
	1 sitting-desk	25 00		
	1 sitting-desk up-stairs	25 00		
	The following property is pledged to John Caswell & Co. for a loan for $75,000 currency, of 4th November, 1867:			
	1,650 bags Rio coffee, ex Acme, 261,360 lbs nett	12¼		32,016 60
	1,650 bags in bond, 264,000		13,200 00	
	142 half-chests Japan tea, ex Glencure, 100-100, 7,143, 1,546, 5,997	57		3,019 29
	1 half-chest Japan tea, ex Glencure, 102-14, 52, 14, 38	55		20 90
	216 half-chests Japan tea, ex Glencure, 104-33, 11,097, 2,592, 8,505	63		5,358 15
	Less goods sold and delivered from 20th to 25th November			
	2 half chests tea, Kate Carnie, 3, 5, 40, 75	55	41 25	
	4 1-8 bales Mocha coffee, 146	25	36 50	
	3 1-16 bales Mocha coffee, 54	25	13 50	
	1 ¼ bale Mocha coffee, 75	25	18 75	
	4 bags Rio coffee, ex Talesman, 635	13	82 55	
288	10 bags Rio coffee, ex Acme, 1,469	12¼	179 95	
	1 bag Rio coffee, sample, 50	5	2 50	

Inventory or schedule of stock of goods of James K. Place & Co., &c.—Continued.

		Price.	Duty.	Gross amount.
	3 bags Sangapore pepper, 302	22	66 44	
	36 bags Rio coffee, ex Talesman, 5,786	13	752 18	
	8 lbs. tea, 8	1 00	8 00	
	30 bags Race ginger, ex Ashburton, 2,354	10	235 40	
	26 half-chests Imperial tea,* 37, 2,013, 416, 1,597	90		1, 437 30
	52 half-chests Y. Hyson, ex Ashburton,* 4½, 3,558, 780, 2,778	80		2, 222 40
	51 half-chests Hyson, ex Ashburton,* 4.–5–6, 3,170, 765, 2,405	75		1, 803 75
	166 in bond, 9,563		2, 390 75	
	19 half-chests Imperial, ex Fychon,* 15, 1,147, 266, 881	90		792 90
	46 half-chests Y. Hyson, 20–21, 3,237, 644, 2,593	80		2, 074 40
	61 in bond, 4,123		1, 030 75	
	47 half chests Y. Hyson, ex Resolute,* 7.–2–4, 4,025, 752, 3,273	85		2, 782 05
	20 half-chests Gunpowder, ex Fenzell,* 30, 1,519, 300, 1,219	70		853 30
	30 half chests Imperial,* 31, 2,186, 720, 1,466	80		1, 172 80
	22 half-chests Imperial,* 35, 1,536, 330, 1,206	70		844 20
	121 half-chests Japan, ex Glenclure, 13, 4–6, 6,212, 1,573, 4,639	70		3, 247 30
	133 half-chests Japan tea, 13, 7–42, 7,095, 2,128, 4,967	57		2, 831 19
289	221 half-chests Japan tea, ex Gleuchue, 14, 3–6, 11,940, 2,873, 9,067	58		5, 258 86
	833 half-chests in bond, 29,371		7, 342 75	
	22 half-chests Gunpowder, ex Borealis,* 224, 2,087, 352, 1,735	89		1, 544 15
	3 half-chests Imperial, ex Borealis,* 225, 230, 51, 179	80		143 20
	73 half-chests Young Hyson,* 22, 6–7, 6,333, 1,186, 5,165	82		4, 235 30
	45 half-chests Young Hyson,* 228, 3 231, 720, 2,511	58		1, 456 38
	25 half-chests Young Hyson,* 229, 1,714, 375, 1,339	46		615 94
	42 half-chests Hyson, ex Borealis,* 230, 2,817, 630, 2,187	67		1, 465 29
	17 half-chests Hyson, ex Borealis,* 231, 1,047, 289, 758	53		401 74
	22 half-chests Hyson, ex Twankay,* 232, 1,388, 374, 1,014	40		405 60
	3 half-chests G. Powder, ex Borealis,* 234, 182, 42, 140	70		98 00
	1 half-chest G. Powder, ex Borealis,* 233, 87, 26, 61	80		48 80
	2 half-chests Imperial, ex Borealis,* 238, 157, 50, 107	70		74 90
	128 in bond, 3,608		902 00	
	199 half-chests Souchong, ex Sam'l Russell, 11–17, 11,565, 2,587, 8,978	50		4, 489 00
	187 in bond, 10,277		2, 569 25	
	128 half-chests Oolong, ex Queensland, 44–6, 7,927, 1,792, 6,132	45		2, 760 75
	107 in bond, 5,381		1, 345 25	
	1 half-chest G. Powder tea, ex Tycoon,* 35, 1,723, 308, 1,415	1 00		1, 415 00
	23 half-chests G. Powder tea, ex Tycoon,* 36, 1,527, 345, 1,182	80		945 60
290	The following property is pledged to Maitland, Phelps & Co. for a loan of $51,052.22 gold, 10th October:			
	561 bags Rio coffee, ex Star of Devon, 89,760	13		11, 668 80
	561 bags in bond, 89,760		4, 488 00	
	692 bags Rio coffee, ex Priciosa, 111,647, 1,116, 110,531	14		15, 474 34
	684 bags in bond, 109,460		5, 473 00	
	565 bags Rio coffee, ex Nouva Tonia, 90,530, 905, 89,625	11½		10, 306 87
	550 bags in bond, 89,252		4, 462 60	
	84 bags Rio coffee, ex Tamno, 12,884, 129, 12,755	13		1, 658 15
1,167	bags Rio coffee, ex E. Schmidt, 187, 403, 1,874, 185,529	14		25, 974 06
	1,180 bags in bond, 174,184		8, 709 20	
	91 half-chests Young Hyson, 37–9, 7,374, 1,365, 6,006	53		3, 183 18
	32 half-chests Young Hyson, ex Twankay,* 44, 2,014, 512, 1,502	50		751 00
	2 in bond, 315 @ 10 cts		86 62	
	12 half-chests Imperial, ex Twankay C.,* 87, 668, 156, 512	50		256 00
	1 half-chest Young Hyson, ex Twankay,* 61, 76, 15, 61	50		30 50
	1 half-chest Young Hyson,* 62, 60, 16, 44	50		22 00
	1 half-chest Young Hyson, ex Twankay,* 66, 65, 13, 52	50		26 00
	1 half-chest Imperial,* 70, 69, 15, 54	50		27 00
291	1 half-chest Imperial,* 89, 58, 13, 45	50		22 50
	4–0 bags Rio coffee, ex Palma, 75,364, 754, 74,640	11		8, 210 40
	405 bags in bond, 60 679		3, 033 95	
481	bags Rio coffee, ex Palma, H. E., 79,790, 768, 76,022	14½		11, 023 19
	557 bags in bond, 87,891		4, 394 55	
419	bags Rio coffee, ex Delphine, 65,595, 656, 64,940	12		7, 792 80
	450 bags in bond, 69,728		3, 486 40	
	Bags in bond, ex Tamno: 84 bags in bond, 13,346		667 30	

JA'S K. PLACE,
J. D. SPARKMAN,
Petitioners.

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Debts due and owing to the firm of James K. Place & Co.

Name.	Residence.	Gold.	Amount.		Value.
Squires, Sherry & Galusha	Troy, N. Y		$792 28	Bill merchandise, sold 20th November, 1867—tea	$792 28
Geo. C. Cook & Co	Chicago, Ill		173 10	" " " 17th October, 1867—coffee	173 10
Moore, Foote & Co	Detroit, Mich		1,929 06	" " " 20th November, "—tea	1,929 06
Geo. H. Flanders & Co	Chicago, Ill		854 31	" " " 2d October, "—coffee	700 00
O. C. Hatch & Co	New York		575 00	Balance due on loan 20th Nov., 1866, and int. to 20th Nov., '67	575 00
M'r's H. Barker	"		3,791 00	Cash advanced for taxes and $2,000 U. S. 7-30's, and int. to 20th November, 1867	3,791 00
S. M. Cushman	"		63 98	Bill merchandise, sold 14th and 16th November—sundries	63 98
John B. Keys	"		25 30	" " " 22d October—tea	25 30
Martin Gillet	"		20 16	" " " 11th " —tea	20 16
A. Ethridge & Co	Rome, N. Y		388 32	" " " 8th November—sundries	388 32
Moore & Cole	Rochester, N. Y		162 24	" " " 8th " — "	162 24
C. A. Lawton	New York		38 80	" " " 9th " —tea	Nothing.
M'r's Dorothy Place	"		230 00	Cash advanced	230 00
Ja's K. Place, (in trust)	"		450 58	" " on account	450 58
L. Frost & Co	Nebraska City, Neb		172 24	Balance due open account 20th November, 1867	172 24
L. Frost & Co	"		5,000 00	Special capital advanced 1st July, 1864	3 000 00
Gibson, Early & Co	Cincinnati, O		2,471 91	Balance due on coffee sold for account of J. K. P. & Co	2, 471 91
J. H. Pitts & Co	Baltimore, M'd		1,092 61	Bill of merchandise, tea, sold November 9th and 16th, 1867	1, 092 61
Cha's Stoughton	New York		200 00	Balance due on bill, tea, sold 12th November, 1867	200 00
N. Sherwood	"		531 94	Bill merchandise, tea, sold 8th November, 1867	534 94
J. Gould & Son	"		1,907 44	" " " 5th, 8th, and 18th Nov., 1867	1, 907 44
A. D. Grieff	"		12 67	Balance due on bill 14th October—coffee	12 67
Forbes Bro. & White	S't Louis, Mo		1,217 95	Bill merchandise, tea, 30th October, 1867	1, 217 95
Carr, Chase & Raymond	Boston, Mass	1,246 17		" " " 17th September, 1867	1, 660 00
H. W. Hubbell	New York	138 03		" " coffee, 24th Sept., "	100 00
Sturges, Arnold & Co	"	1,447 99		Balance on bill, coffee, 28th June, "	1, 500 00
James Cassidy & Co	"	548 42		Bill merchandise, tea, 23d November, "	730 00
George F. Gilman	"	21 89	15,432 33	" " coffee, 23d Nov., 1867, and tea, Nov. 9	15, 450 00
John Watson	"		10,917 61	" " tea, balance due, sold 9th and 28th Nov., '67	10, 917 61
Moore & Hill	"		331 21	" " coffee, sold 25th November, 1867	331 21
T. Y. Kelley & Co	"	557 38	86 21	" " " " 11th and 15th Nov., 1867	830 00
John Quan	New Albany, Ind		1,665 55	" " " " 9th " "	1, 665 55
W. J. Quan	Chicago, Ill		592 38	" " " " 7th Nov., '67, & bal. bill 22d Oct	592 38
Smith & Ellis	Marshall, Mich		360 67	" " sundries, sold 7th Sept	360 67
Corbin, May & Jones	Chicago, Ill		615 80	" " coffee, " 9th Nov	615 80
George H. Krug	"		502 80	Balance due on bill, tea, 27th Sept	502 80
John Lemesurier & Co	Quebec, C. E	1,870 00		Balance due on tea and molasses sold 1867	2, 500 00
Fitts, Austin & Tanner	New York		407 10	Bill merchandise, coffee, 5th Nov	407 10
W. M. Perry	"		34 20	" " tea, 22d Oct	34 20
Real estate J. K. P., (interest)	Milwaukee, Wis		556 82	Advance taxes, etc., etc., on real estate, Milwaukee	556 82
John Dunckler	Boston, Mass		457 04	Bill merchandise, tea, sold 20th November	457 04
A. G. Sherman	New York		65 00	Balance bill, sundries, sold 21st January, 1867	Nothing.
Place & Prichard	"		1,000 00	Cash loaned 8th February, 1866	100 00
C. H. Dennison	"		425 00	" " "	100 00
G. C. Von Usla	"		445 00	Cash advanced, 1867	445 00

294, 295	C. C. Parks	New York		Note due 1st February, 1868	$131 25
	J. Benedict	"		Balance due on loan, July 16, 1867	600 00
	E. L. Prentiss	"		Loan July 21, 1866	Nothing.
	Groom Bro's & Co	"		Bal. of account for teas sold 1866, including int. to Dec. 31, '66	100 00
	Sackett, Belcher & Co	"		Merchandise sold in 1866, including interest to Dec. 31, '66	500 00
	M. A. Vanbenschotten	"		Merchandise sold in 1867	100 00
	M. C. Vanbenschotten	"		" September 5, 1867	500 00
	S. Vanbenschotten & Co	"		Their notes due 19th Oct., '66, 19th April, '67, 19th Oct., '67, and interest	2,800 00
	Williams, Young & Kaas	Chicago, Ill		Cash loaned December 15, 1866, $1,500; merchandise, December 31, 1866, $419.63, less $585.86 p. 7th Nov.	500 00
	R. Blakely & Co	New Orleans, La		Balance bill, coffee, 30th April, 1867	100 00
	John A. Cooper & Co	New York		Bill, tea, sold 1867	2,500 00
	Lynch, Fling & Drew	Portland, Me		Bill, tea, sold 18th and 19th October, 1867	487 14
	Charles Gutschow & Co	Shanghai, China			4,138 00
	Gutschow & Co	Yokohama, Japan		Interest on currency, deposited as collateral for loan sterling	6,609 60
	Brown Bro's Co	New York		12 shares stock, each $100	345 40
	Humboldt Ins. Co	"		60 shares stock, each $100	980 00
	Metropolitan National Bank	"			7,500 00
	Atlantic Mutual Ins. Co. scrip, 1865, 1866, 1867	"		Bill, pepper, sold 12th November	2,000 00
	Neise, Knoblauch & Co	"		Cash loaned 1866	177 74
	Henry Baldwin	"		Cash loaned 1866	150 00
	Joel White	"		Cash loaned 1867	100 00
	James Dickie	"		Note due 1st May, 1868, $500; 1st Nov., 1868, $500	50 00
	James M. Moore	"		Note due 11th January, 1868	1,000 00
	Galbreath Stewart	"		Note due 10th February, 1868	2,025 25
	Galbreath Stewart	"		Note due 8th January, 1868	2,073 15
	Woodward & Garesche	Memphis, Tenn		Note due 18th February, 1868	1,300 94
	Brinckerhoff and Mills	"		Note, payable 12 months from Oct. 1, 1867, with interest	1,923 32
	Sparkman, Place & King	St Louis, Mo		Note, payable 12 months from Oct. 18, 1867, with interest	10,000 00
	Sparkman, Place & King	New York		Note, payable 12 months from Oct. 21, 1867, with interest	10,000 00
	Sparkman, Place & King	"		Note, payable 12 months from Oct. 29, 1867, with interest	10,000 00
	Sparkman, Place & King	"		Note, payable 12 months from Nov. 8, 1867, with interest	10,000 00
	Sparkman, Place & King	"		Note, payable 12 months from Nov. 18, 1867, with interest	10,000 00
	Davenport & Son	"		Cash loaned them, 1867	12,039 24
	Sparkman, Place & King	"		Note, due 21st January, 1868	815 00
	Moore, Jenkins & Co	"		Note, due 12th March, 1868	226 98
	Moore, Jenkins & Co	"		Note, due 21st February, 1868	563 85
	Lawton & Co	"		Note, due 26th February, 1868	360 00
	Lawton & Co	"		Note, due 2d March, 1868	360 00
	Lawton & Co	"		In open account, for money and notes loaned, and endorsements and commissions	300 00
	Place Sugar Refinery	"			50,000 00
					$213,155 96

296 The following debts due to James K. Place & Co. accrued for sales of coffee imported per ship Leonore, on letters of credit issued by Brown Brothers & Co., and were uncollected at the time of the commencement of an action by Brown Brothers & Co. against James K. Place & Co., claiming the whole proceeds of the importation per said ship Lenore, in which action James M. Brown has been appointed receiver of all said uncollected debts, with authority to collect the same and hold the proceeds subject to the determination of said actions:

H. & Co	$583 94
James Corlies, j'r	527 75
Lawrence & Chambers	1,256 40
Robert Seaman	508 52
Hunting & Dorn	188 18
Imbusch Brothers	3,164 55
Baskerville, Sherman & Co	375 06
D. Wagstaff & Co	382 08
Huntington & Dorn	573 12
H. Garrison & Co	317 73
Kauffman & Jacobs	79 09
D. Wagstaff & Co	192 96
Baskerville, Sherman & Co	263 43
Carpenter & Willets	179 04
Whittaker, Harmon & Co., 945.45, (in gold)	1,323 45
Ewing, Briggs & Co	2,325 82
J. W. Palmer & Sons	376 00
Whittaker, Harmon & Co., 958.75, (gold)	1,341 95
Bonnell & Adams	1,058 21
R. L. Leggett & Co	355 11
J. H. Merrill & Co., 586.08, (gold)	820 48
Baskerville, Sherman & Co	182 16
Baskerville & Co	479 09

The following debts due to James K. Place & Co. accrued for sales of coffee imported per ship Nautilus on letters of credit issued by Duncan, Sherman & Co., and were uncollected at the time of the commencement of an action by Duncan, Sherman & Co. against James K. Place & Co. claiming the whole proceeds of the importation per said ship Nautilus, in which action James M. Brown has been appointed receiver of
297 all said uncollected debts, with authority to collect the same, and hold the proceeds subject to determination of said actions:

Clark & Briggs, (gold,) $1,035.05	$1,444 05
Rowe & Burgess	191 04
Warrington & Co., (gold,) $1,344.18	1,871 78
Hoppock & Green	1,522 56
N. Hertzell & Co	360 93
Imbusch & Brothers	3,779 91
Ross Roberts & Co	380 23
C. F. Meyer	2,038 71
A. Anglbert & Co., (gold,) $670	938 00
Gordon McMillan & Co	2,519 00
Carver, Wendover & Co	6,900 50
Parker & Cadwell	187 68
Whittaker, Harmon & Co., (gold,) $542.44	759 24
D. C. Ripley & Co	361 92
Barrett, Cossitt & Co	2,670 62

D. C. Ripley & Co	597 52
E. C. Ely & Co., (gold,) $668.05	935 05
Meeker & Barker, (gold,) $1,089.53	1,524 60
Wiltshire, Huston & Co	4,207 28
D. C. Ripley & Co	561 72
Neise, Knoblauch & Co	1,145 93
Huntington & Dorn	338 63
Albert, Talbot & Co	1,358 47
Warren, Hewett & Sweet	2,104 36

The following debts due to James K. Place & Co. accrued for sales of coffee purchased from Weston & Gray, and were uncollected at the time of the commencement of an action by them against James K. Place & Co., claiming the whole proceeds of the purchase of that coffee, in which action George G. Haven has been appointed receiver of all uncollected debts arising from sales of said coffee purchased from Weston & Gray, with authority to collect the same and hold the proceeds subject to the determination of said action:

J. W. Palmer & Son	304 76
Baily, Clark & Chapin	598 78
R. F. Pickert	317 77
Waldron, Wightman & Co	160 94
Wason, Pierce & Co	294 88
Carney, Finley & Co	1,506 58
A. F. Davis & Co	321 85
Thomas M. Kerr, gold $613.20, currency $21.25	879 45
T. Y. Kelly & Co., (gold,) $215.10	310 10
298 J. W. Palmer & Sons	316 00
S. L. Wykcoff	653 40
J. Millard & Cool	329 57
Baskerville, Sherman & Co	294 55
S. E. Biddle & Co	785 60
W. J. & J. Clark	1,584 75
Comegys, Brady & Co	3,106 54

JA'S K. PLACE,
J. D. SPARKMAN,
Petitioners.

Schedule B, No. 5.

A particular statement of the property claimed as excepted from the operation of said act, by the provisions of the 14th section thereof, giving each item of property and its valuation; and if any portion of it is real estate, its location, description, and present use.

[N. B.—The property claimed to be exempt under the laws of any State is to be described separately from the rest, and reference given to the statute of said State creating the exception.]

	Valuation. Dollars. Cents.
Property claimed to be excepted from the operations of said act, and which may be set apart by the assignee under the 14th section	None.

Property claimed to be exempt by State laws: its valuation; whether real or personal estate; its description and present use, and under what State law exemption is claimed..... Non

JA'S K. PLACE,
J. D. SPARKMAN,
Petitioners.

Schedule B, No. 6.

The following is a true list of all books, papers, deeds, and writing relating to my trade, business, dealings, estate, and effects, or any part thereof, which at the date of this petition are in my possession or under my custody and control, or which are in the possession or custody
299 of any person in trust for me, or for my use, benefit, or advantage; and also of all others which may have been heretofore at any time in my possession, or under my custody or control, and which are now held by the parties whose names are hereinafter set forth, with the reason for their custody of the same:

Books, none.

The books of James K. Place & Co. now belong to the said assignees. They consist of ledger, journal, day-book, cash-book, storage-book, check-book, loan-book, custom-house book, and bill-book.

Deeds, none.

Papers, etc., none.

JA'S K. PLACE,
J. D. SPARKMAN,
Petitioners.

[N. B.—Oath, as described, to Schedule B, to be annexed to this sheet.]

Oath to Schedule B.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

On this twenty-seventh day of February, A. D. 1868, before me personally came James K. Place and James D. Sparkman, the persons mentioned in and who subscribed to the foregoing petition and schedule, marked "B," respectively, and who, being by me first duly sworn, did declare the said schedule to be a statement of all their estate, both real and personal, in accordance with the act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867.

JOHN FITCH, *Register.*

Statement of all creditors who are to be paid in full, or to whom priority is secured, according to the provisions of the 28th section of said act.

Order of payment; preferred claims.	Reference to ledger or voucher.	Names of creditors.	Residences and occupations.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether contracted as copartner or joint contractor, and, if so, with whom.
1. Debts due the United States, and taxes and assessments under the laws thereof, None.						
2. Debts due to the State of New York, and taxes and assessments under the laws of said State, None.						
3. Wages due clerk servant, &c., to be an amount not exceeding $50, for labor performed within six months, None.						
4. Other debts preferred by said act, None.						

JAMES K. PLACE, *Petitioner.*

SCHEDULE C, No. 2.

Creditors holding securities.

N. B.—Particulars of securities held, with dates of same, and when given to be stated under the names of the several creditors, and also particulars concerning each debt, as required by the 11th section of the act, and whether contracted as copartner or joint contractor with any other person, and, if so, with whom.

Reference to ledger or voucher.	Names of creditors.	Residences and description.	When and where contracted.	Value of securities.	Amount of debits.
None	Rufus Park	New York City. Bond and mortgage on 25 acres of land at Binghamton, Broome County, New York, made by John Mack to Rufus Park, assumed by a conveyance of Mack and wife to James K. Place of said land.	New York City, July 2, 1866	$4,000 00	$2,326 00
None	J. P. Giraud, jr., executor.	New York City. Bond secured by a mortgage given for part of the purchase-money of premises Nos. 131 and 134 Front, and 87 and 89 Pine street, in the city of New York.	New York City, February, 1864 ...	100,000 00	41,400 00
302 None...	Jane C. Place.....	New York City. Bond secured by a mortgage of premises Nos. 132 and 134 Front street, and 87 and 89 Pine street, in the city of New York, which bond and mortgage was given for money lent.	New York City, June 1, 1867.....	78,600 00	78,600 00
		Also a bond of James K. Place, Charles Place, James D. Sparkman, and Thomas M. Turlay, secured by a mortgage on premises on Front and South streets, between Gouverneur and Jackson streets, in the city of New York, now owned by the Place Sugar Refinery, being 70 feet front on South and Front streets.	City of New York, Nov. 30, 1865 ..	100,000 00	25,000 00
303 None...	Jane C. Place.....	Also a bond of James K. Place, Charles Place, and James D. Sparkman, secured by a mortgage on the same premises on South and Front streets.	New York City, May 29, 1867	50,000 00	$50,000 00
None	Susan A. Place	New York City. A bond of James K. Place, Charles Place, James D. Sparkman, and Thomas M. Turlay, secured by a mortgage on the said premises on Front and South streets, belonging to Place Sugar Refinery.	New York City, Nov. 30, 1865	100,000 00	25,000 00

There is no judgment, bond, bill of exchange, or promissory note, recovered for, made, connected with, or appertaining to any or either of the above-mentioned claims, excepting or otherwise as is therein particularly specified.

JA'S K. PLACE, *Petitioner.*

SCHEDULE C, No. 3.

Creditors whose claims are unsecured.

Reference to ledger or voucher.	Names of creditors.	Residences and occupations.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person, and, if so, with whom.
None	E. L. Roberts	Brooklyn, Kings Co., New York; architect.	$5,600 00	New York City, during the years 1866 and 1867.	In open account for services as an architect in superintending the erection of a building corner of 5th avenue and 47th street, in the city of New York, and on 43d street, between 5th and 6th avenues, in said city.
None	Myron H. Strong	New York City; clerk.....	Claim about $30,000 00	New York City, about the year 1867.	Strong makes a claim against the firm of J. K. & E. B. Place, of which James K. Place was a member, for services alleged to be rendered in procuring information in respect to the passage of revenue bills by the Congress of the United States, for a part of the profits claimed to have been realized by J. K. & E. B. Place out of goods purchased by reason of information obtained from said Strong, in pursuance of an alleged agreement between said firm and him. This claim is wholly denied. An action was commenced by the said Strong against the said J. K. & E. B. Place to establish said claim, in the superior court of the city of New York, in which action judgment was given against said Strong, which judgment on appeal was set aside and a new trial granted, and from the order granting such new trial an appeal has been had to the court of appeals of the State of New York, where the matter is now pending.
None	Spence, Montague & Co., composed of James C. Spence, William W. Spence, Dibrell P. Montague, and Andrew Reid.	New York City; merchants.	$72,657 35	New York City, Sept. 18 and 26, 1867.	James K. Place was a stockholder and trustee in the Place Sugar Refinery, a corporation created under the laws of the State of New York, holding stock at par value of $66,666.66. The Place Sugar Refinery are indebted to Spence, Montague & Co. in the sum of $62,657.35 for goods purchased, for which its notes were given, and it is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being such stockholder or trustee.
306 None	Thomas J. Owen	New York City; merchant..	$66,666 66	New York City, Sept. 21, 1867.	The said Place Sugar Refinery was indebted to Thomas J. Owen in the sum of $86,853.15, for which its notes were given, and it is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee of the Place Sugar Refinery, as before mentioned.
None	C. P. Fischer & Co., composed of Charles P. Fischer, Ernst Fischer, and Robert Whitman.	New York City; merchants	66,666 66	New York City, Oct. 22, 1867	The said Place Sugar Refinery are claimed to be indebted to C. P. Fischer & Co. in the sum of $92,450.17 for goods purchased, for which its notes were given, and it is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee of the Place Sugar Refinery, as before mentioned.

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SCHEDULE C, No. 3—Continued.

Creditors whose claims are unsecured.

Reference to ledger or voucher.	Names of creditors.	Residences and occupations.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person, and, if so, with whom.
307 None	A. T. Briggs	New York City; cooper	$5,293 29	New York City, Sept. 30, 1867, Oct. 31, 1867, and Nov. 19, 1867.	The said Place Sugar Refinery is indebted to A. T. Briggs in the sum of $5,293.29 for goods purchased and work done in open account. It is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	P. V. King & Co., composed of Peter V. King, Nathaniel W. Chater, and Joseph Lentilhon.	New York City; merchants	16,185 81	New York City, Nov. 8, 1867.	The said Place Sugar Refinery is indebted to P. V. King & Co. in the sum of $16,185.81 for goods purchased in open account. It is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	Fowler & Jova, composed of James D. Fowler and John J. Jova.	New York City; merchants	8,470 41	New York City, Nov. 11, 1867.	The said Place Sugar Refinery is indebted to Fowler & Jova in the sum of $8,470.41 for goods purchased in open account. It is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
308 None	Davis, Pearson & Co. Who compose this firm is unknown, and cannot be ascertained.	New York City; coal-dealers	$1,942 50	New York City, Oct. 23 and Nov. 6, 1867.	The said Place Sugar Refinery is indebted to Davis, Pearson & Co. in the sum of $1,942.50 in open account It is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	Kalbfleisch & Sons. Who compose this firm is unknown, and cannot be ascertained.	New York City; merchants	338 23	New York City, Nov. 4, 1867.	The said Place Sugar Refinery is indebted to Kalbfleisch & Sons in the sum of $338.23 in open account. It is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
309 None.	Small & Marsh. Individual names not known and cannot be ascertained.	New York City; brokers....	$403 35	New York City, Nov. 18, 1867.	The said Place Sugar Refinery is indebted to Small & Marsh in the sum of $403.25 for commissions for the sale of goods for it in open account. It is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	H. Adams.....	New York City; broker	$314 55	New York City, Nov. 27, 1867.	The said Place Sugar Refinery is indebted to H. Adams in the sum of $314.55 for commissions for goods sold for it in open account. It is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.

None	The Manufacturers' National Bank.	New York City; bankers ..	$65,000 00	New York City, Aug., Sept., Oct., and Nov., 1867.	The Place Sugar Refinery is indebted to the Manufacturers' National Bank in the sum of $65,000, upon its eight promissory notes, endorsed by James K. Place & Co., and discounted by said bank. It is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
310					
None	Fourth National Bank	New York City; bankers...	$52,624 00	New York City, July, Sept., and Oct., 1867.	The Place Sugar Refinery is indebted to the Fourth National Bank in the sum of $52,624.00, on seven notes endorsed by James K. Place & Co., and discounted by said bank. It is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	American Exchange National Bank.	New York City; bankers...	$9,862 50	New York City, Aug. 28, 1867.	The Place Sugar Refinery is indebted to the American Exchange National Bank in the sum of $9,862.50, upon its two notes discounted by said bank It is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee of the Place Sugar Refinery, as before mentioned.
311					
None	National Bank of the Republic.	New York City; bankers...	$9,862 50	New York City, Aug. 28, 1867.	The Place Sugar Refinery is indebted to the National Bank of the Republic in the sum of $9,862.50, upon its two notes discounted by said bank. It is claimed that James K. Place may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	The Place Sugar Refinery...	New York City; sugar refiners.	$10,000 00	New York City, Nov. 18, 1867	In open account for money advanced.

There is no judgment-bond, bill of exchange, or promissory note recovered for, made, connected with, or appertaining to any or either of the above-mentioned claims, excepting or otherwise as is therein particularly specified.

JA'S K. PLACE, *Petitioner.*

312 SCHEDULE C, No. 4.

Liabilities on notes or bills discounted which ought to be paid by the drawers, makers, or acceptors.

None.

JAMES K. PLACE,
Petitioner.

SCHEDULE C, No. 5.

Accommodation paper.

None.

JAMES K. PLACE,
Petitioner.

313 *Oath to Schedule C.*

UNITED STATES OF AMERICA,
Southern District of New York:

On this twenty-seventh day of February, A. D. 1868, before me personally came J. K. Place, the person mentioned in and who subscribed to the foregoing petition and schedule, marked "C," respectively, and who, being by me first duly sworn, did declare the said schedula to be a statement of all his debts, &c., in accordance with the act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867.

JOHN FITCH,
Register.

Schedule D, No. 1.

Statement of all real and personal estate and effects whatever which are now in possession, enjoyment, or under the control of the petitioner, or which are held by any other person in trust for his use, or to the possession or enjoyment of which he is entitled at the date of filing the petition.

INTEREST IN LANDS.

Particular description of all real estate owned by the petitioner, or held by him, and whether under contract or lease. None.
Encumbrances thereon, if any, and dates thereof. None.
Statement of all particulars relating thereto. None.
Estimated value. None.

JAMES K. PLACE,
Petitioner.

Schedule D, No. 2.

PERSONAL PROPERTY.

A. Cash on hand. None.
314 B. Bills of exchange, promissory notes, or securities of any description, (each to be set out separately.) None.
C. Stock in trade, in my business of at of the value of nothing.
D. Household goods and furniture, household stores, wearing apparel, and ornaments of the person: Wearing apparel, $150.00; one watch, $100.00.
E. Books, prints, and pictures. None.
F. Horses, cows, sheep, and other animals. None.
G. Carriage and other vehicles. None.
H. Farming stock and implements of husbandry. None.
I. Shipping and shares in vessels. None.

K. Machinery, fixtures, and apparatus used in business, with the place where each is situated. None.

L. Goods or personal property of any other description, with the place where each is situated. None.

JAMES K. PLACE,
Petitioner.

Schedule D, No. 3.

CHOSES IN ACTION.

A. Debts due petitioner on open account. None.

B. Stocks in incorporated companies, and interest in joint-stock companies. None.

C. Policies of insurance. None.

D. Unliquidated claims of every nature, with their estimated value. None.

JAMES K. PLACE,
Petitioner.

315 SCHEDULE D, No. 4.

Property in reversion, remainder, or expectancy, including property held in trust for the petitioner, or subject to any power or right to dispose of, or to charge.

General interest.	Particular description.	Supposed value of my interest.
		Dollars. Cents.
Interest in land. None....	Real estate and leasehold property, with locality, names, and description of parties now enjoying the same, and the value thereof; also the nature of my interest therein, and from whom and in what manner it is derived. None.	
Personal property. None..	Personal property, with locality, names, and descriptions of persons now enjoying the same; also the nature of my interest therein, and from whom and in what manner it is derived. None.	
Property in money, stock, shares, bonds, annuities, etc., etc. None.	Annuities, money in public or other funds, shares in railroad and other companies, showing in whose names the same are standing, with names and descriptions of persons now enjoying the same; also the nature of my interest therein, and from whom and in what manner it is derived. None.	
Rights and powers. None.	Rights and powers, wherein I or any other persons in trust for me or for my benefit have any power to dispose of, charge, or exercise. None.	

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		Amount realized from proceeds of property conveyed.
		Dollars. Cents.
Property heretofore conveyed for benefit of creditors.	Description of property of debtor heretofore conveyed for benefit of creditors by deed of assignment, or otherwise; date of such deed or instrument of conveyance, with name and address of party to whom made, amount realized for same, and the disposal of such property, so far as known to petitioner.	$561 50
What portion of debtors' property has been conveyed by deed of assignment, or otherwise, for benefit of creditors; date of such deed, name and address of party to whom conveyed; amount realized therefrom and disposal of same, so far as known to the petitioner.	The petitioners, James K. Place and James D. Sparkman, by deed of assignment, bearing date the 23d day of December, 1867, and recorded in the office of the clerk of the city and county of New York, in the State of New York, in vol. 12 of records of assignment, page 705, conveyed to Lewis W. Burritt, jr., and Thomas T. Sheffield, severally residing in the city of New York, all their property and effects, joint and several, of every description, in trust to convert the same into money, and to pay and divide the proceeds thereof to and among the creditors of the said petitioners, without priority or preference, except such as might be given by the laws of the State of New York or of the United States.	

The individual property of James K. Place conveyed by said assignment is as follows:

317 *Individual property of James K. Place.*

Four lots of land known as Nos. 132 & 134 Front st., and Nos. 87 and 89 Pine street, with one building covering the whole of said four lots; the whole worth $105,000, subject to a mortgage for $41,000, to the executors of Jacob Giraud, deceased, and to a mortgage for $79,000 to Jane C. Place, and to taxes and assessments for about $2,000		$3,000 00
Five shares of Sparkman, Place & King, a corporation, of the par value of $100		500 00
467 shares of the stock of the Place Sugar Refinery, of the par value of $100, worthless.		
75 shares Union Sugar Co., of the par value of $100, worthless.		
25 acres of land at Binghampton, Broome Co., New York, worth $5,200, subject to a mortgage for $2,326		2,874 00
360 acres of land at Saginaw, in the State of Michigan, belonging to J. K. & E. B. Place, in which James K. Place has an interest of three-eight's, worth $8 an acre, full value $4,480—3-8ths		1,680 00
Three-eighths of the following mortgages on lands at Saginaw, Michigan, which mortgages belong to J. K. & E. B. Place, now being in the possession of Gaylord & Hanchett, Saginaw City, Michigan, the particulars of which cannot be given:		
Mortgage of Anthony Schmidt	$532 00	
Mortgage of Michael Leidlein	1,600 00	
Mortgage of John Kneffner	500 00	
Mortgage of John J. Schnell	800 00	
Mortgage of Christian Walberg	1,000 00	
Mortgage of John Kopke	600 00	
Mortgage of John Limburg and Charles Golderf.	426 00	
	$5,458 00	2,046 00
318 Promissory note of George Nichols, endorsed by McElvaine H. Young, dated February 16, 1859, payable four months after date, for $488.56, which note belongs to J. K. & E. B. Place, which is now in suit, pending in the court of appeals from a judgment of the New York common pleas, against the right of recovery by James K. & E. B. Place, worthless.		
One gray horse		750 00
		$10,850 75

JA'S K. PLACE,
Petitioner.

Schedule D, No. 5.

A particular statement of the property claimed as excepted from the operations of said act, by the provisions of the 14th section thereof, giving each item of property and its valuation; and, if any portion of it is real estate, its location, description, and present use.

[N. B.—The property claimed to be exempt under the laws of any State is to be described separately from the rest, and reference given to the statute of said State creating the exception.]

Valuation.

Property claimed to be excepted from the operations of said act, and which may be set apart by the assignee under the 14th section:

Wearing apparel $150 00
One watch 100 00

Property claimed to be exempt by State laws; its valuation; whether real or personal estate; its description and
319 present use, and under what State law exemption is claimed ..... None.

JA'S K. PLACE,
Petitioner.

Schedule D, No. 6.

The following is a true list of all books, papers, deeds, and writings relating to my trade, business, dealings, estate, and effects, or any part thereof, which at the date of this petition are in my possession or under my custody and control, or which are in the possession or custody of any person in trust for me, or for my use, benefit, or advantage; and also of all others which may have been heretofore at any time in my possession, or under my custody or control, and which are now held by the parties whose names are hereinafter set forth, with the reason for their custody of the same.

Books ..... None.
Deeds ..... None.
Papers, etc ..... None.

JA'S K. PLACE,
Petitioner.

Oath to Schedule D.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

On this twenty-seventh day of February, A. D. 1868, before me personally came James K. Place, the person mentioned in and who subscribed to the foregoing petition and schedule marked "D," respectively, and who, being by me first duly sworn, did declare the said schedule to be a statement of all his estate, both real and personal, in accordance with the act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867.

JOHN FITCH,
Register.

320 *Schedule E, No. 1.*

Statement of all creditors who are to be paid in full, or to whom priority is secured, according to the provisions of the 28th section of said act:

ORDER OF PAYMENT—PREFERRED CLAIMS.

1. Debts due the United States, and taxes and assessments under the laws thereof. None.

2. Due to the State of New York, and taxes and assessments under the laws of said State. None.

3. Wages due clark, servant, &c., to an amount not exceeding $50, for labor performed within six month'. None.

4. Other debts preferred by said act.

J. D. SPARKMAN,
Petitioner.

321 SCHEDULE E, No. 2.

Creditors holding securities.

Reference to ledger or voucher.	Names of creditors.	Residences and descriptions.	When and where contracted.	Value of securities.	Amount of debts.
None	William Morgan, guardian.	Brooklyn, New York. Bond secured by a mortgage on leasehold premises on the south side of 43d street, between 5th and 6th avenues, New York City.	New York City, spring of 1867.	$12,000 00	$4,000 00
None	Mutual Life-Insurance Company of New York.	New York City. Bond secured by mortgage on premises corner of Rutgers Place and Jefferson streets, New York City, now owned by Sparkman, Place & King, a corporation, which debt has been assumed by said corporation.	New York City, January, 1869.	100,000 00	40,000 00
None	Williamsburgh Savings Bank.	Brooklyn, New York. Bond secured by a mortgage on property on Clove road, Brooklyn.	Brooklyn, New York, about the year 1860.	8,000 00	5,000 00
None	James Lenox	New York City. Bond secured by a mortgage on the premises No. 209 Pearl street, New York City.	New York City, about the year 1860.	35,000 00	18,000 00

There is no judgment, bond, bill of exchange, or promissory note recovered for, made, connected with, or appertaining to, any or either of the above mentioned claims excepting or otherwise as is therein particularly specified.

J. D. SPARKMAN, *Petitioner.*

322 SCHEDULE E, No. 3.

Creditors whose claims are unsecured.

Reference to ledger or voucher.	Names of creditors.	Residences and occupations.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person, and, if so, with whom.
None	Corbett & Schenck; individual names not known, and cannot be ascertained.	New York City; carriage-makers.	$140 50	New York City, summer of 1867.	In open account for carriage-repairing.
None	A McGoldrick	New York City, blacksmith	28 00	New York City, summer of 1867.	In open account for blacksmith work.
None	Robert Watts	New York City, physician	2,000 00	New York City, during the years 1866 and 1867.	In open account for medical service.
None	C. Otto Ficht	New York City; painter ..	475 00	New York City, summer of 1867.	In open account for work and materials.
None	Johnson & Rosell; individual names not known.	New York City; feed-dealer	101 28	New York City, summer of 1867.	In open account for feed purchased.
None	John Derhms.....	New York City; plasterer..	84 75	New York City, summer of 1867.	In open account for plastering-work.
None	J. G. Bisney.....	New York City; harness-maker.	95 75	New York City, summer of 1867.	In open account for repairing harness.
None	W. W. Sawyer.....	New York City; sail-maker.	525 75	New York City, summer of 1867.	In open account for sails purchased of him.

None	J. T. Smith	New York City; mason	28 13	New York City, summer of 1867.	In open account for mason work done.
None	The Place Sugar Refinery	New York City; sugar-refiners.	37 67	New York City, summer of 1867.	In open account for sugar purchased of it.
323 None	James Lennox	New York City; carpenter	500 00	New York City, summer of 1867.	In open account for carpenter's work.
None	P. Puels	New York City; upholsterer	224 75	New York City, summer of 1867.	In open account for upholsterer's work.
None	John McComack	New York City; carpenter	200 00	New York City, summer of 1867.	In open account for carpenter's work.
None	John W. Buckmaster	Brooklyn, New York; unknown.	1,500 00	Brooklyn, New York, summer of 1865.	In open account for money loaned.
None	N. E. H. Wade	New York City; no business	1,050 00	New York City, summer of 1865.	In open account for money loaned.
None	Manufacturers' National Bank.	New York City; bankers	927 42	New York City, summer of 1867.	In open account for money loaned.
None	Place & Seaman, composed of D. Newbury Place & Richard W. Seaman.	New York City; fruit-dealers	68 61	New York City, summer of 1867.	In open account for goods purchased of them.
None	Wood Brothers; individual names unknown.	New York City; carriage-makers.	399 12	New York City, summer of 1867.	In open account for carriage repairing.
None	Benjamin Lord	New York City; dentist	135 00	New York City, summer of 1867.	In open account for dentist work.
None	E. L. Janes	Brooklyn, N. Y.; no business	3,000 00	Brooklyn, N. Y., summer of 1866.	In open account for money loaned.
None	A. C. Lee	Saratoga Springs, New York; no business.	2,500 00	New York City, summer of 1865.	In open account for money loaned.
None	John L. Young, survivor of Taylor & Young.	New York City; merchant	10,464 75	New York City, during the years 1866 and 1867.	In open account for money loaned.
None	St Paul's Methodist Episcopal Mission Church.	New York City	100 00	New York City, spring of 1867.	In open account for subscription.
None	Stephen Philbin	New York City; plumber	24 57	New York City, summer of 1867.	In open account for plumbing work.
None	John Shuster	Brooklyn, New York; marble-dealers.	17 00	New York City, summer of 1867.	In open account for repairing marble tiling.
324 None	Baker, Smith & Co., individual names unknown.	New York City; furnace-makers.	$21 38	New York City, summer of 1867.	In open account for repairing furnace.
None	Fourth National Bank	New York City; bankers	15,000 00	New York City, fall of 1867.	As endorser on the promissory notes of Taylor & Young, and discounted by said bank.
None	Manufacturers' National Bank.	New York City; bankers	52,900 00	New York City, during the year 1867.	As endorser on the promissory note of Taylor & Young for $7,500; as endorser of the promissory notes of Sparkman, Place & King for $40,000, and as endorser on the note of Sparkman & Co., of Philadelphia, Pennsylvania, for $5,500; all of which were discounted by said bank.
None	Spence, Montague & Co., composed of James C. Spence, William W. Spence, Debrill P. Montague, & Andrew Reid.	New York City; merchants	62,657 35	New York City, Sept. 18 and 25, 1867.	James D. Sparkman was a stockholder and trustee in the Place Sugar Refinery, a corporation created under the laws of the State of New York, holding stock at par value of $66,666.66. The Place Sugar Refinery was indebted to Spence, Montague & Co. in the sum of $62,657.35 for goods purchased, for which its notes were given, and it is claimed that James D. Sparkman may be liable for the s
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SCHEDULE E, No. 3—Continued.

Creditors whose claims are unsecured.

Reference to ledger or voucher.	Names of creditors.	Residences and occupation.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person, and, if so, with whom.
					indebtedness, or some part thereof, by reason of being such stockholder or trustee.
None	Thomas J. Owen	New York City; merchants	66, 666 66	New York City, September 21, 1867.	The said Place Sugar Refinery are indebted to Thomas J. Owen in the sum of $6,833.15 for goods purchased, for which its notes were given; and it is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee of the Place Sugar Refinery, as before mentioned.
None	C. P. Fischer & Co., composed of Charles P. Fischer Ernst Fischer, & Rob Whitman.	New York City; merchants.	66, 666 66	New York City, October 22, 1867.	The said Place Sugar Refinery are claimed to be indebted to C. P. Fischer & Co. in the sum of $92,450.17 for goods purchased, for which its notes were given; and it is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee of the Place Sugar Refinery, as before mentioned.
326 None	A. T. Briggs	New York City; cooper....	5, 293 29	New York City, September 30, 1867, October 31, 1877, and November 19, 1867.	The said Place Sugar Refinery is indebted to A. T. Briggs in the sum of $5,293.29 for goods purchased and work done in open account. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	P. V. King & Co., composed of Peter V. King, Nathaniel W. Chater, and Joseph Lentilhon.	New York City; merchants	16, 185 81	New York City, November 8, 1867.	The said Place Sugar Refinery is indebted to P. V. King & Co. in the sum of $16,175.81 for goods purchased in open account. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
327 None	Fowler & Jova, composed of James D. Fowler and John J. Jova.	New York City; merchants	8, 470 41	New York City, November 11, 1867.	The said Place Sugar Refinery is indebted to Fowler & Jova in the sum of $8,470.41 for goods purchased in open account. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	Davis, Pearson & Co.; who compose this firm is unknown, and cannot be ascertained.	New York City; coal-dealers.	1, 942 50	New York City, October 23d and November 6, 1867.	The said Place Sugar Refinery is indebted to Davis, Pearson & Co. in the sum of $1,942.50 in open account. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	Kalbfleisch & Sons; who compose this firm un-	New York City; merchants	338 23	New York City, November 4, 1867.	The said Place Sugar Refinery is indebted to Kalbfleisch & Sons in the sum of $338.23 in open account. It is claimed

	known, and cannot be ascertained.				that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
328 None .	Small & Marsh; individual names not known, and cannot be ascertained.	New York City; brokers..	$403 35	New York City, November 18, 1867.	The said Place Sugar Refinery is indebted to Small & Marsh in the sum of $403.35, for commissions for the sale of goods for it in open account. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	H. Adams.....	New York City; broker...	314 55	New York City, November 27, 1867.	The said Place Sugar Refinery is indebted to H. Adams in the sum of $314.55, for commissions for goods sold for it in open account. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
329 None	The Manufacturers' National Bank.	New York City; bankers..	65,000 00	New York City, August, September, October, November, 1867.	The Place Sugar Refinery is indebted to the Manufacturers' National Bank in the sum of $65,000, upon its eight promissory notes, endorsed by James K. Place & Co., and discounted by said bank. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	Fourth National Bank.....	New York City; bankers..	52,624 00	New York City, July, September, and October, 1867.	The Place Sugar Refinery is indebted to the Fourth National Bank in the sum of $52,624, on seven notes, endorsed by James K. Place & Co., and discounted by said bank. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	American Exchange National Bank.	New York City; bankers..	9,862 50	New York City, August 28, 1867.	The Place Sugar Refinery is indebted to the American Exchange National Bank in the sum of $9,862.50, upon its two notes, discounted by said bank. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
330					
None	National Bank of the Republic.	New York City; bankers...	9,862 50	New York City, August 28, 1867.	The Place Sugar Refinery is indebted to the National Bank of the Republic in the sum of $9,862 50, upon its two notes, discounted by said bank. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.

There is no judgment, bond, bill of exchange, or promissory note recovered for, made, connected with, or appertaining to any or either of the above-mentioned claims, excepting or otherwise as is therein particularly specified.

J. D. SPARKMAN,
Petitioner.

331 SCHEDULE E, No. 4.

Liabilities on notes or bills discounted which ought to be paid by the drawers, makers, or acceptors.

N. B.—The dates of the notes or bills, and when due, with the names, residences, and the business or occupation of the drawers, makers, or acceptors thereof, are to be set forth under the names of the holders. If the names of the holders are not known, the name of the last holder known to the petitioner should be stated, and the business and place of residence. The same particulars as to notes or bills on which the petitioner is liable as endorser.

Reference to ledger or voucher. None.

Names of holders as far as known. None.

Place of residence and occupation. None.

Place and where contracted. None.

Amount. None.

Nature of liability, whether same was contracted as copartner or joint contractor, or with any other person; and, if so, with whom. None.

J. D. SPARKMAN,
Petitioner.

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SCHEDULE E, No. 5.

Accommodation paper.

Reference to ledger or voucher.	Names of holders.	Residences of holders or particulars of notes or bills.	Place where contracted.	Amount.	Whether liability was contracted as copartner or joint contractor, or with any other person; and, if so, with whom.
None	Fourth National Bank	New York City.....	New York City	$15,000 00	As endorser in his individual name only.
None	Manufacturers' National Bank.	New York City; as endorser of two notes of Taylor & Young, each for $5,000, payable four months after date, Oct'r 2d and 5th, 1867; and as endorser of four notes of Sparkman, Place & King, each for $10,000—three payable four months after date, dated Sept'r 28th, Oct'r 2d and 21st, 1867, and one payable 75 days after date, and dated October 24, 1867; and endorser of 3 notes of Sparkman & Co., each payable four months after date, one dated July 31, 1867, for $3,000; one dated Aug't 13, 1867, for $2,000; and one dated Aug't 20, 1867, for $2,000.	New York City	52,900 00	As endorser in his individual name only.

There is no judgment, bond, bill of exchange, or promissory note recovered for, made, connected with, or appertaining to any or either of the above-mentioned claims, excepting or otherwise as is therein particularly specified.

J. D. SPARKMAN,
Petitioner.

333 *Oath to Schedule E.*

UNITED STATES OF AMERICA,
Southern District of New York, ss:

On this twenty-seventh day of February, A. D. 1868, before me personally came James D. Sparkman, the person mentioned in and who subscribed to the foregoing petition and schedule, marked "E," respectively, and who, being by me first duly sworn, did declare the said schedule to be a statement of all his debts, &c., in accordance with the act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867.

JOHN FITCH,
Register.

Schedule F, No. 1.

Statement of all real and personal estate and effects whatever, which are now in possession, enjoyment, or under the control of the petitioner, or which are held by any other person in trust for his use, or to the possession or enjoyment of which he is entitled at the date of filing the petition.

INTEREST IN LANDS.

Particular description of all real estate owned by the petitioner, or held by him, and whether under contract or lease. None.
Encumbrances thereon, if any, and dates thereof. None.
Statement of all particulars relating thereto. None.
Estimated value. None.

J. D. SPARKMAN,
Petitioner.

Schedule F, No. 2.

PERSONAL PROPERTY.

A. Cash on hand. None.
334 B. Bills of exchange, promissory notes, or securities of any description, (each to be set out separately.) None.
C. Stock in trade in my business of , at , of the value of nothing.
D. Household goods and furniture, household stores, wearing-apparel, and ornaments of the person. Wearing-apparel, $150.00; one gold watch, 50.00.
E. Books, prints, and pictures. None.
F. Horses, cows, sheep, and other animals. None.
G. Carriages and other vehicles. None.
H. Farming-stock and implements of husbandry. None.
I. Shipping and shares in vessels. None.
K. Machinery, fixtures, and apparatus used in business, with the place where each is situated. None.
L. Goods or personal property of any other description, with the place where each is situated. None.

JA'S D. SPARKMAN,
Petitioner.

Schedule F, No. 3.

CHOSES IN ACTION.

A. Debts due petitioner on open account. None.

B. Stocks in incorporated companies, and interest in joint-stock companies. None.

C. Policies of insurance. None.

D. Unliquidated claims of every nature, with their estimated value. None.

J. D. SPARKMAN,
Petitioner.

335 SCHEDULE F, No. 4.

General interest.	Particular description.	Supposed value of my interest.
		Dollars. Cents.
Interest in land. None....	Real estate and leasehold property, with locality, names, and discription of parties now enjoying the same, and the value thereof; also of the nature of my interest therein, and from whom and in what manner it is derived.	
Personal property. None..	Personal property, with locality, names, and description of persons now enjoying the same; also the nature of my interest therein, and from whom and in what manner it is derived.	
Property in money, stock, shares, bonds, annuities, etc., etc. None.	Annuities, money in public or other funds, shares in railroad or other companies, showing in whose names the same are standing, with names and descriptions of persons now enjoying the same; also the nature of my interest therein, and from whom and in what manner it is derived.	
Right and powers. None..	Rights and powers, wherein I or any other person or persons in trust for me or for my benefit have any power to dispose of, charge, or exercise.	
		Amount realized from proceeds of property conveyed.
		Dollars. Cents.
Property heretofore conveyed for benefit of creditors.	Description of property of debtor, heretofore conveyed for benefit of creditor by deed of assignment, or otherwise; date of such deed or instrument of conveyance, with the name and address of party to whom made, amount realized from same, and the disposal of such property, so far as known to petitioner.	Nothing.
What portion of debtors' property has been conveyed by deed of assignment or otherwise, for benefit of creditors; date of such deed; name and address of party to whom conveyed; amount realized therefrom and disposal of same, so far as known to the petitioner.	The petitioners, James D. Sparkman and James K. Place, by deed of assignment bearing date the 23d day of December, 1897, and recorded in the office of the clerk of the city and county of New York, in the State of New York, in vol. 12 of records of assignments, page 705, conveyed to Lewis W. Burritt, jr., and Thomas T. Sheffield, severally residing in the city of New York, all their property and effects, joint and several, of every description, in trust, to convert the same into money, and to pay and divide the proceeds thereof to and among the creditors of the said petitioners, without priority or preference, except such as might be given by the laws of the State of New York or the United States.	

JAMES D. SPARKMAN, *Petitioner.*

The individual property of James D. Sparkman conveyed by said assignment is as follows:

336 *Individual property of James D. Sparkman.*

A lot of land, with building thereon, known as No. 209 Pearl street, in the city of New York, of the value of $27,500, which is subject to a mortgage for $18,000 and to a lease expiring May 1, 1873 ..... $9,500 00

140 shares of the stock of the Manufacturers' National Bank, worth $30 a share, hypothecated for a debt of $, with

561 shares of the stock of the Manufacturers' National Bank, at $30 a share 16,830 00

300 shares Ogima Mining Co., of the par value of $25, worth $2 a share 600 00

15 shares of Van Anden File Company. Worthless.

Bond of James T. Sparkman for $28,000, secured by a mortgage on five lots of land, with the buildings thereon, situate at the corner of Rutgers Place and Jefferson st., New York City 28,000 00

Promissory notes of Sparkman, Place & King, a corporation, payable two years from November 16, 1867, with interest. Good 20,473 37

Note of James T. Sparkman, dated Nov. 1, 1867, payable three years after date.

Stock in Breckenridge Coal Co. Number of shares unknown; par value $53.70. Worthless.

135 shares Union Sugar Company; par value $100. Worthless.

1,000 shares Isaacs Harbor Gold Co.; par value $5. Worthless.

111 shares of the Noble Well-Oil Co., of the par value $25. Worthless.

3 mortgage bonds of the Everett Petroleum Co., each for $100. Worthless.

8 shares of the Long Island Steamboat Co., of the par value of $25. Worthless.

667 shares of the Place Sugar Refinery, of the par value of $100. Worthless.

10,751 shares of the N. Y. Nevada Mining Co., of the par value of $10 a share. Worthless.

2 shares of Sparkman, Place & King, of the par value of $100 a share 200 00

337 Lease of three lots on south side of 43d st., between 5th and 6th avenues, under leases granted by Robert J. Livingston and wife for 21 years, at a rate of $100 a year for each lot, with a stable-building covering the rear of said lots 15,000 00

One-eighth interest in 560 acres of land at Saginaw, in the State of Michigan, worth $8 an acre 560 00

One-eighth of the following mortgages on lands at Saginaw, Michigan, now being in the possession of Gaylord & Henchett, at Saginaw City, Michigan, the particulars of which cannot be given:

Mortgage of Anthony Schmidt	$532 00
Mortgage of Michael Leidlien	1,600 00
Mortgage of John Kneffner	500 00
Mortgage of John J. Schnell	800 00
Mortgage of Christian Waltz	1,000 00

Mortgage of John Kopke	600 00	
Mortgage of John Limburg and Charles Golderf.	426 00	
	$5,458 00	682 25
		$111,645 62

J. D. SPARKMAN,
Petitioner.

SCHEDULE F, No. 5.

A particular statement of the property claimed as excepted from the operation of said act by the provisions of the 14th section thereof, giving each item of property and its valuation; and if any portion of it is real estate, its location, description, and present use.

N. B.—The property claimed to be exempt under the laws of any State is to be described separately from the rest, and reference given to the statute of said State creating the exception.

Property claimed to be excepted from the operations of said act, and which may be set apart by the assignee under the 14th section: Wearing-apparel, $150.00; one gold watch, $50.00.

338 Property claimed to be exempt by State laws; its valuation; whether real or personal estate; its description and present use, and under what State law exemption is claimed. None.

J. D. SPARKMAN,
Petitioner.

SCHEDULE F, No. 6.

The following is a true list of all books, papers, deeds, and writings relating to my trade, business, dealings, estate, and effects, or any part thereof, which at the date of this petition are in my possession or under my custody and control, or which are in the possession or custody of any person in trust for me, or for my use, benefit, or advantage; and also of all others which may have been heretofore at any time in my possession or under my custody or control, and which are now held by the parties whose names are hereinafter set forth, with the reason for their custody of the same:

Books	None.
Deeds	None.
Papers, etc	None.

J. D. SPARKMAN,
Petitioner.

Oath to Schedule F.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

On the twenty-seventh day of February, A. D. 1868, before me personally came James D. Sparkman, the person mentioned in and who subscribed to the foregoing petition and schedule marked "F," respectively, and who, being by me first duly sworn, did declare the said schedule to be a statement of all his estate, both real and personal, in accordance with the act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867.

JOHN FITCH,
Register.

339 EXHIBIT 24.

Injunction in bankruptcy.

District court of the United States for the southern district of New York.

IN THE MATTER OF JAMES K. PLACE AND James D. Sparkman, bankrupts. } In bankruptcy.

At the court-rooms of the United States courts, No. 41 Chambers street, in the city of New York, in said district, on the twenty-seventh day of February, A. D. 1868.

Before Hon. Samuel Blatchford, district judge for said district.

It appearing to the court that a petition for adjudication in bankruptcy has been filed by James K. Place and James D. Sparkman, as copartners, composing the firm of James K. Place & Company, and individually, and that they were, as such copartners and individually, adjudged and declared bankrupts on the 27th day of February, in the year 1868, on reading the petition of James K. Place and James D. Sparkman, by which it appears that Charles P. Fischer, Ernst Fischer, and Robert Whitman, as composing the copartnership-firm of C. P. Fischer & Company, and Obadiah W. F. Randolph, are severally creditors of said bankrupts, and have severally commenced actions in the supreme court of the State of New York against said bankrupts to recover debts and claims against said bankrupts, provable under the act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2d, 1867, and that James Brown, Stewart Brown, James M. Brown, Charles D. Dickey, Howard Potter, John Crosby Brown, Clarence S. Brown, Mark W. Collett, Francis A. Hamilton, Stewart Henry Brown, and Herman Hoskin, as
340 composing the copartnership-firm of Brown Brothers and Company, heretofore commenced an action in said Supreme Court against the said bankrupts, upon claims and demands provable under said act, in which action they recovered judgment against said bankrupts on the 13th day of February, in the year 1868, for the sum of eighty-three thousand six hundred and fifty-three $\frac{83}{100}$ dollars, upon which judgment they caused an execution to be issued to the sheriff of the city and county of New York, which was returned wholly unsatisfied, and afterwards, on the 18th day of February, in the year 1868, they procured an order from one of the justices of the said supreme court for the examination of the said bankrupts, for the purpose of discovering on oath concerning their property;

And it appearing by the said petition that the further prosecution of the said actions and the said proceedings may tend to embarrass the said proceedings in bankruptcy, it is ordered that the said Charles P. Fischer, Ernst Fischer, and Robert Whitman, composing the said firm of C. P. Fischer & Company, the said Obadiah W. F. Randolph, and the said James Brown, Stewart Brown, James M. Brown, Charles D. Dickey, Howard Potter, John Crosby Brown, Clarence S. Brown, Mark W. Collett, Francis A. Hamilton, Stewart Henry Brown, and Herman Hoskin, composing the said firm of Brown Brothers & Company, each and every of them, their and each of their agents, be enjoined and restrained, and they are hereby enjoined and restrained, from further prosecuting any or either of said actions hereinbefore mentioned, and any other action

or actions against the said bankrupts, or either of them, for the said causes of action, and that the said James Brown, Stewart Brown, James M. Brown, Charles D. Dickey, Howard Potter, John Crosby Brown, Clarence S. Brown, Mark W. Collett, Francis A. Hamilton, Stewart Henry Brown, and Herman Hoskin, composing said firm of Brown Brothers & Company, be enjoined and restrained from further proceeding with said supplemental proceedings, under said order granted by said justice of said supreme court, for the examination of the said bankrupts concerning their property, and from taking and proceeding with any proceedings whatsoever to collect or enforce the payment of their said judgment; and that all, each, and every of said persons
341 and parties, their agents and attorneys, be so enjoined and restrained, and they are hereby so enjoined and restrained, until the further order of the court in the premises, and that an injunction issue to the above purport and effect.

Witness the honorable Samuel Blatchford, judge of said court, and the seal thereof, at the city of New York, in said district, this 27th day of February, A. D. 1868.

[SEAL.] GEO. F. BETTS, *Clerk.*

A true copy from the original on file.

GEO. F. BETTS, *Clerk.*

EXHIBIT 25.

Appointment of assignee in bankruptcy.

In the district court of the United States for the southern district of New York.

IN THE MATTER OF JAMES K. PLACE AND James D. Sparkman, individually, and as copartners of the firm of J. K. Place & Co. } In bankruptcy.

At No. 39 Pine street, in the city of New York, in said district, on the 22d day of April, A. D. 1868.

Before M'r John Fitch, register in bankruptcy.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

MEMORANDUM.—This being the day appointed by the court for
342 the adjourned first meeting of creditors in the above bankruptcy, and of which due notice has been given in the New York Times and Commercial Advertiser, and by special notice served personally or through the mail, the greater part, in number and in value, of the creditors of the said James K. Place and James D. Sparkman, present at such meeting, having failed to make choice of an assignee of said bankrupts' estate, and there being no opposing interest, I, the said John Fitch, register in bankruptcy, do hereby nominate and appoint John Sedgwick, esq., to be the assignee of the said bankrupts' estate and effects.

JOHN FITCH,
Register in Bankruptcy.

To whom it may concern:

Be it known that I hereby signify my acceptance of the trust of as-

signee of the estate of the above-named bankrupts this 22d day of April, A. D. 1868.

JNO. SEDGWICK.

Approved:

SAM'L BLATCHFORD, *District Judge.*

I hereby certify that the foregoing is a true copy of the notification of the appointment of John Sedgwick, assignee of the estate of said bankrupts, now on file at my office, No. 44 Wall st., N. Y.

New York, June 1st, 1870.

JOHN FITCH, *Register.*

EXHIBIT 26.

In the district court of the United States for the southern district of New York.

IN THE MATTER OF JAMES K. PLACE AND James D. Sparkman, individually, and as copartners of the firm of J. K. Place & Co., bankrupts. } In bankruptcy.

Before John Fitch, register.

To whom it may concern:

343 The undersigned hereby gives notice of his appointment as assignee of the estate of James K. Place and James D. Sparkman, individually, and as copartners of the firm of J. K. Place & Co., of New York, in the county of New York and State of New York, within the said district, who have been adjudged bankrupts, upon their own petition, by the said district court of said district.

Dated at New York the 22d day of April, A. D. 1868.

JNO. SEDGWICK, *Assignee,*
No. 137 Broadway, New York City.

EXHIBIT No. 27.

Assignment of bankrupts' effects.

In the district court of the United States for the southern district of New York.

IN THE MATTER OF JAMES K. PLACE AND James D. Sparkman, bankrupts. } In bankruptcy.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Know all men by these presents that John Sedgwick, esq., of the city of New York, in the county of New York, in said district, has been duly appointed assignee in said matter. Now, therefore, I, John Fitch, a register in bankruptcy, by virtue of the authority vested in me by the 14th section of an act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867, do hereby convey and assign to the said John Sedgwick, assignee as aforesaid, all the estate, real and personal, of the said James K. Place and James D. Sparkman, bankrupts aforesaid, including all

the property, of whatever kind, of which they were possessed, or in which they were interested, or entitled to have on the 27th day of February, A. D. 186–, with all their deeds, books, and papers relating
344 thereto, excepting such property as is exempted from the operation of this assignment by the provisions of the said fourteenth section of said act. To have and to hold all the foregoing premises to the said John Sedgwick and his heirs forever, in trust, nevertheless, for the use and purposes, with the powers, and subject to the conditions and limitations set forth in the said act.

In witness whereof I, the said register, have hereunto set my hand, and caused the seal of said court to be affixed, this 22d day of April, A. D. 1868.

[L. S.] JOHN FITCH,
Register in Bankruptcy.

CITY, COUNTY, AND STATE OF NEW YORK,
Southern District of New York, ss:

On this 10th day of June, A. D. 1868, personally appeared before me John Fitch, a register in bankruptcy, well known to me to be the same person described in and who executed the within deed of assignment, and acknowledged to me that he executed the same for the uses and purposes therein mentioned.

ELIJAH H. RIKER,
Notary Public, residing in the city of New York.

REGISTER'S OFFICE,
City and County of New York:

I hereby certify that the foregoing instrument was this day recorded in the office of the register of the city and county of New York, in liber 1071 of conveyances, page 16, at 1 o'clock and 3 min. p. m.

In witness whereof I have hereunto set my hand and official seal this 7th day of July, 1868.

[L. S.] CHA'S G. HALPINE, *Register.*

345 EXHIBIT 28.

At a stated term of the district court of the United States in and for the southern district of New York, held at the court-rooms of said court, No. 41 Chambers street, in the city of New York, on the third day of September, one thousand eight hundred and sixty-nine.

Present, Hon. Samuel Blatchford, judge.

JOHN SEDGWICK, AS ASSIGNEE, &C., }
vs. }
JAMES K. PLACE ET AL. }

An order having heretofore been made on the 22d day of June last, requiring the defendants to show cause why a receiver should not be appointed, as prayed for in and by the last amended bill of complaint filed in this suit, upon the return of which order the hearing of the application for the appointment of said receiver was, on motion of the defendants, adjourned to the 5th day of August, 1869, and on such adjourned day an application was made by the defendants to further adjourn the hearing of said application, when it was suggested, and ordered by the court, that the hearing of said application should be confined to the question as to whether the safety of the money and property, as to which a receiver was applied for, required the appoint-

ment of such receiver pending the suit; and thereupon, in conformity to such suggestion and order, and upon reading the said last amended bill of complaint, and on reading and filing also the affidavit of John Sedgwick, sworn to the 22d day of June, 1869, and the affidavit of the said John Sedgwick, sworn to on the 5th day of August, 1869, and the two affidavits of Alexander H. Wallis, sworn to respectively on the 5th of August, 1869, and the 6th day of August, 1869, and the affidavit of Lewis W. Burritt, j'r, and Thomas T. Sheffield, sworn to on the 6th day of August, 1869, and the schedules, accounts, and inventory thereto annexed, and after hearing F. N. Bangs and T. M. North, of counsel for the complainant, and William M. Evarts, T. C. T. Buckley, and A.
346 H. Wallis, esq's, of counsel for the defendants Burritt and Sheffield, and on reading and filing proof of service of notice of the application on the solicitors for James K. Place and James D. Sparkman, and due deliberation having been thereupon had—

It is ordered that John Sedgwick, of the city of New York, the plaintiff, be, and he is hereby, appointed a special receiver pending this cause, and until the final decree or further order of the court herein, of all and singular the lands, tenements, real estate, merchandise, goods, chattels, furniture, fixtures, debts, claims, demands, accounts, books of account, agreements, covenants, judgments, bonds, notes, bills receivable, drafts, choses in action, stocks, rights, interests, leases, leasehold premises, and of all property of every kind and description, whether real, personal, or mixed, of whatsoever kind, and wheresoever situated, which are mentioned and referred to in, or purport to be assigned, transferred, and conveyed by, or by virtue of, the indenture mentioned in said amended bill of complaint, bearing date the 23d day of December, 1867, made by and between the defendants James K. Place and James D. Sparkman, of the first part thereto, and the said Lewis W. Burritt, j'r, and Thomas T. Sheffield, of the second part thereto, as to which no receiver has heretofore been appointed in this cause, and of the proceeds of such parts of the said property, estate, and effects as remain in the hands of the defendants James K. Place and James D. Sparkman, or the said Lewis W. Burritt, j'r, and Thomas T. Sheffield, or any or either of them, and of all such rights of actions, claims, and demands, as under color or by the words of the said assignment or indenture, or otherwise, purported or appeared or purport or appear to have been transferred or conveyed to or vested in said Burritt and Sheffield, under and by virtue of an act of the legislature of the State of New York, passed April 17, 1858, entitled "An act to declare and extend the powers of executors, assignees, receivers, and other trustees, and to protect the rights of creditors and others against frauds, and for other purposes," or otherwise; that the special receiver do have and possess in respect to the property, said estate and rights of action, of which he is so appointed receiver, all the usual powers of such receivers in like cases.

And it is further ordered that the defendants Burritt, Sheffield, James K. Place, and James D. Sparkman do respectively, as far as they
347 respectively have the possession or control of the same, transfer and deliver all the said property, estate, and effects, and proceeds thereof, and all books of account and papers relating thereto, to the said special receiver, upon his demand therefor, so far as they are in their possession or under their control, or were in their possession or under their control on June 22d, 1869.

And it is further ordered that it be, and it is hereby, referred to Richard E. Stilwell, esquire, who is hereby appointed special master of this court for that purpose, to take an account and inventory of all the

property, estate, and effects affected by this order, and that the defendants Lewis W. Burritt, j'r, Thomas T. Sheffield, James K. Place, and James D. Sparkman, do severally attend, from time to time, before the said special master, as required by his order or summons, to account in writing and under oath, as required by said special master, for all the said property, estate, and effects of which the said John Sedgwick is hereby appointed the special receiver as aforesaid, and, so far as the same shall not have been delivered pursuant to the foregoing provisions of this order, to convey and deliver the same as required by said special master and under his direction to the said special receiver.

And it is hereby further ordered that the said special receiver do deposit in the United States Trust Company, in the city of New York, such sums of money as shall from time to time come to his hands, whenever such sums shall amount to one thousand dollars or upwards, to be drawn only upon the special order of the court; and that the said special receiver do, on the first Monday of each and every month until such receivership shall have been determined, file in the office of the clerk of this court a statement, report, and account in writing, and under oath, of his receipts and payments as such receiver during the month preceding the filing of such report.

And it is further ordered that, before entering upon his duties as such, the said special receiver file with the clerk of this court a bond, with sufficient surety, to be approved by the judge of this court, as to the form of the bond and the sufficiency of the surety, upon two days' notice to the attorney for the said Burritt and Sheffield, in the penalty of one hundred thousand dollars, conditioned for the faithful performance by said special receiver of his duties as such, and for the ac-
348 counting for all moneys and property that shall have come to his possession, and the disposition made thereof.

It is further ordered, the said receiver consenting, that, as against the plaintiff, no commissions be allowed to the said receiver for his acts, doings, proceedings, payments, or receipts, as such, unless upon condition that whatever commissions be allowed to him as such receiver shall be charged to and deducted from any commissions or compensation which shall be allowed or paid to him as assignee in bankruptcy of said James K. Place and James D. Sparkman.

And leave is hereby given to the said special receiver, and to the said Place and James D. Sparkman, Burritt, and Sheffield, to apply to the court for further directions, from time to time, upon the foot of this order.

This order to be without prejudice to the ultimate rights of the parties plaintiff and defendant in this action.

SAMUEL BLATCHFORD.

A true copy from the original on file.

GEO. F. BETTS, *Clerk.*

At a term of the district court of the United States for the southern district of New York, held at the city of New York, on the eleventh day of October, 1869.

Present, Hon. Samuel Blatchford, J.

JOHN SEDGWICK, AS ASSIGNEE, &C.,
vs.
JAMES K. PLACE ET AL.

Upon the pleadings and proceedings in this cause, and the order made herein on the third day of September, 1869, appointing a special re-

ceiver, and the papers upon which the same was granted, and upon due notice of application for this order, and on motion of C. W. Bangs, attorney for the plaintiff, no one appearing to oppose—

It is ordered, declared, and determined that, under the said order made in this cause on the third day of September, 1869, the spe-
349 cial receiver appointed by said order had and has power and authority to bring suit upon such overdue and uncollected debts, claims, obligations, and causes of action as may or may have come into his hands, or vest or have vested in him as such receiver, and to prosecute such suits to judgment, and to collect such debts, claims, obligations, and causes of action, by legal suits, process, and proceedings; and the said special receiver is hereby authorized to bring and prosecute such suits and proceedings for the collection of such debts, claims, obligations, and causes of action as he may be advised.

And it is further ordered that this order be entered nunc pro tunc, as of the third day of September, eighteen hundred and sixty-nine.

SAMUEL BLATCHFORD.

A true copy from the original on file.

GEORGE F. BETTS, *Clerk.*

EXHIBIT 29.

Receiver's bond.

Know all men by these presents that we, John Sedgwick, of the city of New York, as principal, and Russell Sage and Nathaniel A. Cowdrey, of the same city, as sureties, are held and firmly bound unto the United States of America in the penal sum of one hundred thousand dollars, ($100,000,) lawful money of the United States of America, for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals. Dated the fourth day of September, eighteen hundred and sixty-nine.

Whereas, at a district court of the United States in and for the southern district of New York, held at the court-rooms of said court, in the city of New York, on the third day of September, eighteen hundred and sixty-nine, an order was made in an action then pending in said court, in which John Sedgwick, as assignee in bankruptcy of James K. Place and James D. Sparkman, was plaintiff, and the said James K. Place and others were defendants, by which order the above-bounden John Sedgwick was appointed to be a special receiver as therein prescribed, and reference being hereby made to said order, by which order the
350 said John Sedgwick was also required before entering upon the performance of his duties as such special receiver to file this bond with the clerk of this court:

Now, the condition of the above obligation is such that if the said John Sedgwick shall faithfully perform his duties as such special receiver, and shall faithfully account for all moneys and property that shall come to his possession as such receiver, and the disposition made thereof, then the above obligation shall be void, but otherwise shall be and remain in full force and virtue.

RUSSELL SAGE. [SEAL.]
JNO. SEDGWICK. [SEAL.]
N. A. COWDREY. [SEAL.]

Three words interlined. Sealed and delivered in presence of—
JNO. A. HILLERY.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

On this sixth day of September, eighteen hundred and sixty-nine, (1869,) before me personally appeared John Sedgwick, Russell Sage, and Nathaniel A. Cowdrew, known to me to be the persons described in and who executed the foregoing bond severally, and acknowledged to me that they executed the same.

JNO. A. HILLERY,
Notary Public, N. Y. Co.

Filed Sept. 7, 1869. Approved as to form and manner of execution and sufficiency of sureties, Sept. 7, 1869.
Sam'l Blatchford, district judge.

351 At a stated term of the district court of the United States for the southern district of New York, held at the court-rooms thereof on the 17th day of January, 1874.
Present, the Hon. Samuel Blatchford, district judge.

JOHN SEDGWICK, AS SPECIAL PECEIVER,
vs.
JAMES T. SPARKMAN, IN HIS OWN RIGHT INdividually and also as executor of the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, James D. Sparkman, and John Q. Preble.

This cause having been brought to a hearing upon the pleadings and proofs therein, and counsel for the respective parties having been
352 heard, and due deliberation thereupon had, the court doth now adjudge and decree as follows:
The assignment of leases mentioned in the bill of complaint and therein claimed to have been fraudulent and void as against the creditors of the said James D. Sparkman, were and are not fraudulent and void as alleged in and by the bill of complaint, and the plaintiff is not, by anything averred or proved in this cause, entitled to any recovery as against the defendants, or either of them; and therefore it is ordered and adjudged that the said bill of complaint be, and the same is hereby, dismissed from and out of this court, and that the defendant Sparkman recover of the plaintiffs their costs in this cause, to be paid out of the funds in his hands as special receiver as aforesaid.

SAM'L BLATCHFORD, *D. J.*

(Endorsed:) U. S. district court. John Sedgwick, as special receiver, &c., vs. James T. Sparkman, individually & as executor, &c., James D. Sparkman, and John Q. Preble. Decree. C. W. Bangs, sol'r for sp'l rec'r.

353 U. S. district court, southern district of New York.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C., appellant,
ag't
JAMES T. SPARKMAN, INDIVIDUALLY AND AS executor, and James D. Sparkman and John Q. Preble.

Notice of claim of appeal, &c.

Please take notice that the plaintiff above named claims and has

taken an appeal to the circuit court of the United States for the southern district of New York, in the second circuit, from the judgment and decree rendered and entered in the above-entitled cause on the seventeenth (17th) day of January, 1874, and from the whole and every part thereof.

Dated January 22d, 1874.

C. W. BANGS,
Pl'ff's Sol'r.

To GEORGE F. BETTS, Esq.,
Clerk U. S. District Court, S. D. of New York.
J. N. PLATT, Esq.,
354 *Sol'r for Def'ts & Appellees, James D. Sparkman, individually and as executor, &c., and James D. Sparkman.*
N. B. HOXIE, Esq.,
Sol'r for Def't Preble, the United States Trust Co., Rec'r, &c.

(Endorsed:) U. S. district court, S. D. of N. Y. in equity. John Sedgwick, as special receiver, &c., appellant, *vs.* James D. Sparkman, individually and as ex'r, &c., et al., appellees. Notice of claim of appeal. C. W. Bangs, sol'r for appellant. Service of a copy of the within notice is hereby admitted. N. Y., January 24, 1874.

355 U. S. district court of the United States for the southern district of New York, in the second circuit. In equity.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C., appellant,
v.
JAMES T. SPARKMAN, IN HIS OWN RIGHT INDIVIDUALLY and also as executor, &c., of Mary Ann Sparkman, deceased, and James D. Sparkman, and John Q. Preble.

To the circuit court of the United States for the southern district of New York, in the circuit court:

The appeal of John Sedgwick, as special receiver, appointed by the district court of the United States in and for the southern district of New York, in an action wherein the said John Sedgwick, as assignee in bankruptcy of James K. Place and James D. Sparkman, was plaintiff, and James K. Place and James D. Sparkman and others were
356 defendants, respectfully showeth:

That on the 16th day of September, A. D. 1869, the above-named appellant, as special receiver as above mentioned, filed his bill of complaint in the district court of the United States for the southern district of New York, against the appellees above named, in a suit in equity to recover certain property mentioned in said bill of complaint, as part of the estate of James D. Sparkman, and to set aside and have declared void and of no effect certain assignments, transfers, and conveyances of property, and recover the proceeds thereof, &c., as prayed in said bill, as will more fully and at large appear by said bill on file in said district court.

That the said appellees, James T. Sparkman, individually and as executor, &c., as above mentioned, and James D. Sparkman, individually and as executor, &c., as above mentioned, and James D. Sparkman, duly appeared in said action and filed their answers to said bill
357 of complaint, and the plaintiff duly replied thereto, and thereupon such proceedings were had in the said cause that on the seventeenth day of January, 1874, a final judgment and decree was

duly made and entered in said district court in said cause, wherein it was adjudged and decreed that the assignment of leases mentioned in the bill of complaint and therein claimed to have been fraudulent and void as against the creditors of said James D. Sparkman were and are not fraudulent and void as alleged in and by the bill of complaint, and the plaintiff was not, by reason of anything averred or proved in said cause, entitled to any recovery as against the defendants, or either them; and it was therefore ordered and adjudged that the said bill of complaint in said cause be, and the same was thereby, dismissed from and out of said district court, and that the defendants Sparkman recover of the plaintiff their costs in this cause, to be paid out of
358 the funds in his hands as special receiver as aforesaid; which said decree was duly signed and entered on said seventeenth (17th) day of January, 1874, and which said judgment and decree is, as this appellant is advised, erroneous and ought to be reversed.

Wherefore this appellant appeals from the whole of said judgment and decree of said district court to the circuit court of the United States for the southern district of New York, in the second circuit, and respectfully prays that said decree of said district court, and the bill of complaint, answers, replications, depositions, evidence, and proceedings in the said cause may be sent to the said circuit court without delay, and that the said circuit court will proceed to hear the said cause anew, and that the said judgment and decree of the said district court, and every part thereof, may be reversed, or such other decree made as to the said circuit court shall seem just.

359 Dated New York, January 22, 1874.

JOHN SEDGWICK,
Special Receiver,
By C. W. BANGS, *his Solicitor.*

The foregoing appeal allowed, bond approved, and citation signed this 27th day of January, 1874.

SAM'L BLATCHFORD, *D. J.*

(Endorsed:)
U. S. district court, S. D. of N. Y. In equity. John Sedgwick, as special receiver, &c., appellant, vs. James T. Sparkman, individually and as ex'or, &c., et al. Appellees, copy petition of appeal. C. W. Bangs, sol'r for app'l't.

Due and timely service of a copy of the within petition is hereby admitted.
Dated Jan. 28, 1874.

J. N. PLATT,
Att'y Sparkman.
N. B. HOXIE,
Sol'r for Def't Preble.

360 United States district court, southern district of New York. In equity.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &c., appellant,
vs.
JAMES T. SPARKMAN, INDIVIDUALLY AND AS executor, &c., James D. Sparkman, and John Q. Preble, appellees.
} Bond on appeal.

Know all men by these presents, that we, John Sedgwick, the appel-

lant above mentioned, and Francis N. Bangs, are held and firmly bound unto James T. Sparkman, individually and as executor, &c., of Mary Ann Sparkman, deceased, James D. Sparkman, and John Q. Preble, the appellees in the above-entitled action, in the sum of one thousand dollars, to be paid to the said appellees, their successors, heirs, or assigns, respectively; for the payment of which, well and truly to be made
361 we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the 26th day of January, eighteen hundred and seventy-four.

Whereas the above-named appellant has prosecuted an appeal to the circuit court of the United States for the southern district of New York, in the second circuit, out the district court of the United States for the southern district of New York, to reverse the judgment and decree made and re-entered in the above-entitled cause, on the 17th day of January, 1874, entered with the clerk of the said district court on the nineteenth (19th) day of January, (1874,) eighteen hundred and seventy-four, by which it was adjudged and decreed that the plaintiff was not entitled to recover against the said defendants in said action, and that the bill of complaint be dismissed out of the said court, with costs to said appellees Sparkman, above named:

362 Now, therefore, the condition of the above obligation is such, that if the above-named appellant and obligor, John Sedgwick, as special receiver as aforesaid, shall prosecute the said appeal to effect, and shall pay all damages and costs which shall be awarded against him if the said decree be affirmed, then this obligation to be void; otherwise to remain in full force and virtue.

JOHN SEDGWICK. [SEAL.]
F. N. BANGS. [SEAL]

Signed, sealed, and delivered in presence of—
LUCIUS W. HAW.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

On this twenty-sixth day of January, 1874, before me personally came John Sedgwick and Francis N. Bangs, to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged to me that the' executed the same.

[SEAL.] LUCIUS W. HAW,
Notary Public.

363 UNITED STATES OF AMERICA,
Southern District of New York, ss:

Francis N. Bangs, being duly sworn, doth depose and say, that he is a freeholder in the city of New York, residing in said city; & that he is worth the sum of two thousand dollars over and above all his liabilities and property exempt from execution.

F. N. BANGS.

Sworn to before me this 26th day of January, 1874.
[SEAL.] LUCIUS W. HAW,
Notary Public.

The foregoing bond is approved as to form, and amount, and sufficiency of the surety.
January 27th, 1874.

SAM'L BLATCHFORD, *D. J.*

(Endorsed:) U. S. district court. In equity. John Sedgwick, as sp'l rec'r, &c., appellant, v. James T. Sparkman, individually and as executor, &c., James D. Sparkman, and John Q. Preble. Bond on appeal. C. W. Bangs, sol'r for app'l't.

364 By the honorable Samuel Blatchford, judge of the district court of the United States for the southern district of New York.

To James T. Sparkman, individually in his own right and as executor, &c., of Mary Ann Sparkman, deceased, James D. Sparkman, and John Q. Preble:

Whereas John Sedgwick, as special receiver, &c., has appealed to the circuit court of the United States for the southern district of New York from the judgment and decree rendered and entered in the district court of the United States for the southern district of New York on the seventeenth (17th) day of January, eighteen hundred and seventy-four, (1874,) made in favor of the said James T. Sparkman, individually and as executor as aforesaid, and James D. Sparkman, and John Q. Preble, as in said judgment and decree mentioned, in a suit in equity
365 brought by the said John Sedgwick, as special receiver, &c., as in said decree mentioned, against you, and the said appellant having filed the security required by law, you, and each of you, are hereby cited to be and appear before the said circuit court of the United States for the southern district of New York, at the city of New York, in said district, on the last Monday of February next, to do and receive what may pertain to justice to be done in the premises.

Given under my hand at the city of New York, in the southern district of New York, this 27th day of January, 1874.

SAM'L BLATCHFORD.

(Endorsed:)
U. S. district court, S. D. of N. Y. In equity. John Sedgwick, as special receiver, &c., appellant, vs. James D. Sparkman, individually and as ex'or, &c., et al. Copy citation on appeal. C. W. Bangs, sol'r for app'l't.

366 Due & timely service of a copy of the citation is hereby admitted.

Dated Jan. 28, 1874.

J. N. PLATT,
Att'y Sparkman.
N. B. HOXIE,
Sol'r for Def't Preble.

367 United States district court, southern district of New York.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C.,
vs.
JAMES T. SPARKMAN, IN HIS OWN RIGHT INDIVIDUALLY and also as executor of the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, James D. Sparkman, and John Q. Preble.

To the district court of the United States for the southern district of New York:

The petition of the United States Trust Company of New York respectfully shows:

That your petitioner is a body politic and corporate, duly created and existing under and by virtue of the laws of the State of New York, and

authorized by law to execute trusts created by last will and tes-
368 tament.

That by a judgment duly made and entered on the 29th day of January, 1874, in an action then pending in the supreme court of the State of New York for Kings County, between John Sedgwick, as assignee in bankruptcy of James K. Place, and James D. Sparkman, as plaintiff, against James T. Sparkman, James D. Sparkman, Charles P. Sparkman, Dora Sparkman, and Mary Young, wife of John L. Young, as defendants, your petitioner was appointed to be the executor of, and trustee under, the last will and testament of Mary Ann Sparkman, late of the city and county of New York, in place and stead of the said James T. Sparkman, and in and by the said judgment it was further ordered, adjudged, and determined that the said James T. Sparkman should transfer to the United States Trust Company all the assets and property in his possession or under his control, and all his right,
369 title, and interest in, to, and upon any assets or property which constituted part of the estate of the said testatrix, to the end that the same might be administered by the said United States Trust Company according to law, and that all lawful debts and obligations of the said testatrix, and of the said James T. Sparkman, as such executor, might be paid out of the same, and the balance remaining paid out and distributed according to the directions contained in said will.

That thereafter, and on the seventeenth day of January, 1874, a decree in the above-entitled cause was made, in favor of the defendants herein, dismissing the bill of complaint.

That thereafter, and before the said judgment of the supreme court was made and entered as aforesaid, the plaintiff in the said cause appealed to the circuit court of the United States for the southern district of New York, in the second circuit, from the said judgment and
370 decree rendered and entered herein as aforesaid, the notice of which said appeal was dated January 22d, 1874.

Wherefore your petitioner prays that it, as executor of and trustee under the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, may be substituted as defendant and appellee in this cause in place and stead of the said James T. Sparkman, as executor of said last will and testament, with liberty and power to defend against said appeal, and that a rule be made and entered accordingly; and that your petitioners have such other and further relief as may be just and equitable.

And your petitioner will ever pray, &c.

Dated March 9th, 1874.

UNITED STATES TRUST COMPANY OF NEW YORK.

EDGAR S. VAN WINKLE,
Attorney for Petitioner, 48 *Wall st., N. Y.*

371 UNITED STATES OF AMERICA,
Southern District of New York, ss:

John A. Stewart, being duly sworn, deposes and says that he is the president of the United States Trust Company of New York, the petitioner named in the foregoing petition, and that the said petition is true to his own knowledge, except as to those matters therein stated on information, and as to those matters he believes it to be true.

JOHN A. STEWART.

Sworn to before me this 9th day of March, 1874.

[L. S.] W. A. W. STEWART,
Notary Public, N. Y. Co.

We consent that a rule or order be made and entered, as prayed for in the above petition, without notice to us.
Dated March 9th, 1874.

C. W. BANGS,
Pl'ff's Att'y.
J. N. PLATT,
Def'ts' Att'y.

372 (Endorsed:) U. S. district court. John Sedgwick, as special receiver, against James T. Sparkman and others. Petition. Edgar S. Van Winkle, solicitor for petitioner, 48 Wall st., N. Y.

U. S. circuit court.

JOHN SEDGWICK, ASSIGNEE &C., *v.* JOHN Q. PREBLE ET AL. } Case relating to leasehold property on 42d st., conveyed by James D. Sparkman to his wife, Dec. 1, 1865.

The attention of the court is called to the fact that although the third of the printed volumes handed up appears to contain the whole record in this cause, yet there is contained in the largest of the three volumes (Sedgwick v. Place) *is contained* a deposition of James D. Sparkman, which by consent is to be considered a part of the record in this cause.

373 May 14, 1874.

F. N. BANGS, *for Pl'ff.*
EDGAR S. VAN WINKLE,
for U. S. Trust Co.

It is further consented that all the testimony in the case of Sedgwick v. Place shall be considered before the court in the case of Sedgwick v. Preble as if duly returned to this court from the district court as a part of the record in Sedgwick v. Preble.

F. N. BANGS, *for Pl'ff.*
EDGAR S. VAN WINKLE,
for U. S. Trust Co.

(Endorsed:) U. S. circuit court. John Sedgwick, ass'ee, &c., v. John Preble et al. Copy. Stipulation as to testimony.

374 U. S. district court.

JOHN SEDGWICK, AS ASSIGNEE, &C.,
ag'st
JAMES K. PLACE ET AL.

Testimony on the part of the plaintiff, taken for final hearing under the 67th rule of the Supreme Court of the United States, in equity, as amended.

Deposition of Ephraim B. Place.

Ephraim B. Place called and sworn.
I was a partner in the firm of J. K. & E. B. Place. The firm ended Nov. 30th, 1865. I recognize the book now produced and shown to me as the ledger of J. K. & E. B. Place. The proportion of my interest in that firm was three-eighths. I believe my account was balanced on the

ledger up to the 30th of November, 1865, so as to show the amount of my interest in the property of the firm at that date. The books show my interest in the firm property, after the payment of debts, to have been $168,529.96. I state this by reference to page 6 of the ledger, where that balance appears. On the 30th November, 1865, or
375 prior to that time, I was a special partner in the firm of Place & Turlay, sugar-refiners. I contributed to the capital $30,000. I sold my interest in the firm of Place & Turlay to James K. Place & Co., the fore part of December, 1865, after the dissolution of J. K. & E. B. Place. I received their note for my interest, 5 years from the 1st of December, 1865, or 30th of November, (I have forgotten which,) for $30,000, with interest at 7 per cent. per annum, payable semi-annually. The $168,529.96 which stood to my credit with J. K. Place & Co. was there, and I drew it as I wanted it. I do not remember whether or not I had withdrawn the whole of that $168,000, or any sum in excess of it. The books will show. I believe the account on the book, the ledger now before me, on pages 6, 7, 8, 9, 18, and 19, to be correct. I think up to the 20th November, 1867, I had withdrawn from J. K. Place & Co., in excess of the $168,529.96, the sum of $25,283.75, and applied it on the $30,000 note spoken of, which left a balance due me on the $30,000 note. Page 6 of the ledger marked "Sedgwick vs. Place, Exhibit 1, April 27, 1870, pages 7, 8, 9, 18, and R. E. S., special ex'r, &c.")

In addition to the sums so paid to me, and applied by me, I was chargeable with the further sum of $2,536.75 for capital invested for my account in the special partnership of L. Frost & Co., of Nebraska City, which should be added to the other charges against me. That would then make the total amount for which I was chargeable $26,795.27 against the $30,000 note.

Cross-examined:

The whole amount of interest which I had in the firm of J. K. & E. B. Place, Nov. 30, 1865, was $328,521.82. I was worth that sum of money at that time, more or less. That comprised substantially the value of my estate, as near as I can remember. I left $168,000 to my credit in J. K. Place & Co., and was to draw it as I wanted it; left it on call to be drawn as I desired. I drew it out as per copy of my account hereto annexed. I went to Europe on the 18th April, 1866, and returned
376 on the 18th April, 1867. The occasion of my retiring from the firm of J. K. & E. B. Place was I thought I had money enough. On the 30th November, 1865, I withdrew from the firm, in reduction of my interest, items amounting to $159,991.86, leaving an interest of $168,529.96. The $328,000 which I have said I was substantially worth on the 30th November, 1865, did not include the $30,000 in Place & Turlay; I owned that independent. That would make up my estate to about $350,000.

I see I have made a mistake. The $30,000 I put in was drawn out of J. K. & E. B. Place, and had not been charged to me up to the 1st December, 1865. I see the charge was not made there until April, but it was charged to me under date of April, 1866, of course reducing my balance of $168,000 so much. The $168,000, as the measure of my interest, was my ascertained share of all the property of the concern after providing for the payment of its debts. I suppose that would embrace a share of every item standing open on the books of the concern, as an investment of the concern, or as a debt due it.

I do not think that if there was an item of 5th avenue property, corner of 47th street, appearing to owe the concern, the balance to my

credit would embrace my share of it; if there was such an item open on the books, and it was property of the concern, I do not know whether it would have been charged to profit and loss or not. I did not keep the books and don't know anything about them. If the concern invested $10,000 on property at the corner of 5th avenue and 47th street, for the benefit of one of the partners, it would be charged to that partner; and if charged to that partner, my assets in the firm would not have been reduced by such charge, I presume; my interest would not have been reduced, but my partner's would. The interest of James K. Place and James D. Sparkman was not at all reduced by the charge on the 30th November to me of the items amounting to $159,000; but, I suppose, if the 5th avenue item and the items which were charged to me
377 had been charged to profit and loss, the result would have been a reduction of my interest; it would consequently have led to the reduction of their interest and my own. On looking at page 108 of the ledger, at the account "United States 7 3-10ths bonds," marked "Sedgwick versus Place, Exhibit No. 2, April 27, 1870, R. E. S., special examiner, &c.," of which a copy is hereto annexed, I find according to the account that it owed the concern on the 30th November, 1865, after charging to me the bonds I then withdrew, $94,243.45. I have a very imperfect knowledge of books; I have paid no attention to them. I know what is before my eyes, but as to giving any particulars I could not. I do not know whether the balance to my credit of $168,000 embraces my share of that item. I don't know whether, if the firm had no such property as is represented by this account, my interest would have been less than $160,000 by 3-8ths of $94,000; if that was a fictitious account altogether, and there was no such property, or supposing the bonds had been stolen or burned up, and there was no chance of getting them back again, I would not have been chargeable at all. I was chargeable with losses of the concern, but I had nothing to do with these; they belonged to M'r Sparkman and M'r James K. Place. The bonds were divided. Those which were divided were charged to me. What remained belonged to James K. Place and James D. Sparkman. The fact is I don't understand how they came to belong to them; I don't understand the entry altogether. If there were any losses of accounts still remaining unpaid, I would have been chargeable for my proportion. The property in which I had an interest of $168,000 was after the debts were paid. After the concern was dissolved, there was a certain amount of property on hand, coffees, and so on. The bonds did not belong to the concern; they belonged to the individual members of the firm, that is, on the 30th November, 1865. The concern bought them; that made them belong to the concern, and then they divided the bonds—they
378 were divided—each one took their proportion. The property in which I had an interest of $168,000 was groceries, bills receivable, real estate, debts due the concern, &c. I am not sufficiently versed in book-keeping to tell where that property appears on the books. I presume it appears on the trial-balance; but I don't know anything about it in fact. The property in which I had an interest of $168,000 is shown on the trial-balance of J. K. & E. B. Place in their journal now produced and shown to me, at pages 261 to 273 inclusive, marked "Sedgwick vs. Place, Exhibit No. 3, Nov. 12th, 1869, L. W. B., j'r;" I don't know of any property which the firm had that does not appear there.

The firm of J. K. & E. B. Place dissolved November 30, 1865. The stock on hand which it then owned was sold to J. K. Place & Co. They were the successors of the old business. J. K. Place & Co. consisted of James K. Place and James D. Sparkman. They did business at the

old stand, substantially succeeded to the old business. The stock on hand was taken at about its market value. The books show how we arrived at the value of the liabilities of the firm, and also the value of the demands of the firm; they show that the demands were estimated at their face. I supposed they were all good. The firm had on hand prior to the time of its dissolution some Government bonds, I think about $160,000; they were divided up between the partners. I took my share, which was 3 8ths of $160,000. In selling the assets of the firm the $160,000 in Government bonds were not sold.

The $168,000 testified to already by me, on the 2d day of December, 1865, was my interest in the concern of J. K. & E. B. Place; it was subject to contingent deductions in case of any loss on debts due to the concern, that were collectable, below their estimated value; such losses did occur to reduce the $168,000 to the extent, as near as I can remember, of about $8,000. The two items with which I am debited under date of Dec. 23, 1867, one of $4,190.55 and the other of $4,792.50,
379 is my share of the losses which appear to be the property of J. K. & E. B. Place, Nov. 30, 1865; the nature of those items was failures to collect debts.

When I say the merchandise was sold to J. K. Place & Co., I mean the balance of stock that remained on hand in the concern was taken by them, that is, sold to them at the market-price. This was by an arrangement between me and my brother. I think the value had been fixed and the inventory taken before my share was ascertained, so that I think my balance of $168,008 represented my share of the merchandise. I believe the way the inventory was taken was in this way, by taking an inventory of the merchandise in gold, and estimating it at $996,367.19 in gold, and adding to that 48 p. cent. for the difference between gold and currency, viz, $478,256.25, making an aggregate of $1,474,623.44; then I suppose the amount of the inventory in gold, with the premium on gold added, was charged to the merchandise account; at any rate, whichever way the books were kept, I presume they were kept correct. The sale was agreed upon that I should not be responsible for any losses on that merchandise, so that if there were losses I was not chargeable with them.

I don't remember anything about the particulars, whether the books show the sum of $1,474,623 44, or any such sum, as being paid by J. K. Place & Co. to J. K. & E. B. Place. I can't go beyond the books. If it was paid to J. K. & E. B. Place, they paid their debts with it, I suppose. I don't remember what the amount was that was paid for the goods; the goods were paid for, I presume. If J. K. Place & Company paid to J. K. & E. B. Place $1,474,623.44 for that merchandise, I presume J. K. & E. B. Place paid their debts with it; if they hadn't I should have heard of it.

I mean that J. K. Place & Co. turned the merchandise into money, from time to time, or into debts or claims, and paid most of the debts of J. K. & E. B. Place along in the ordinary course of business. I don't mean to say that James K. Place and James D. Sparkman, on
380 the 30th of November, 1865, actually put among the funds of J. K. & E. B. Place one million of dollars; no such operation was performed. The accounts were all balanced on the 30th of November, 1865, and the balance carried forward on the books of J. K. & E. B. Place as property of J. K. Place & Co. They continued to use the books of J. K. & E. B. Place, it appears, up to the time of their failure. On their ledger the merchandise account was balanced the 30th of November, 1865, I believe, and a balance carried forward to the debit of that

account of $1,474,623.44, and all the other accounts on the ledger were balanced in the same way and carried forward. I answer so from looking at the ledger now before me.

The actual change that took place is this: It was understood that whether they realized the amount of the inventory or not, that is, even if they lost on the goods, I was not to be charged with any proportion of that loss: but if they lost on the other items, that is, on the debts due to the concern, I would be charged. J. K. Place & Co. went on in the same place of business that J. K. & E. B. Place had occupied, took the assets or turned them into money from time to time, and provided for most of the debts of J. K. & E. B. Place—I mean by assets, accounts and property of every kind—turned them into money from time to time and paid the debts of J. K. & E. B. Place mostly, just as if they were the debts of J. K. Place & Co., and I withdrew, from time to time, the balance of my account and something beyond it, as I have stated. I don't remember that J. K. Place & Co. had any capital beyond the interest of James K. Place and James D. Sparkman in the assets of J. K. & E. B. Place; I never knew of any in regard to James K. Place, but Mr Sparkman had other property. I don't remember that the firm of J. K. Place & Co. had any capital beyond the interest of James K. Place and James D. Sparkman in the assets of J. K. & E. B. Place. I don't remember how much money J. K. & E. B. Place had on hand when that firm dissolved. I don't believe I could tell from the cash-
381 book. I presume the balance of cash on hand went right into the possession of J. K. Place & Co. like all the other items of property of J. K. & E. B. Place. I don't know anything to the contrary. The first item of cash I withdrew on account of my interest after the 30th of November, 1865, is $69, Dec. 2; the next, $300, same date; next, $27.50; $48.52; $25.05, on the 4th. I drew as my personal necessities required, very much as I would on a bank-account, and in that way I finally got all my interest and something more, as I have testified. If the firm of J. K. Place & Co. had paid me on the 30th of November, 1865, in cash, $168,529.96, the result would have been, as far as my interest in the property was concerned, no different from the result which followed from my drawing it in little instalments from time to time, except that I would not have been credited with interest. I believe, in fact, that by the process to which I have testified my interest in all the items of property of J. K. & E. B. Place passed to and became vested in J. K. Place & Co. I would not say whether the item of real estate in 43d street was among the items in which my interest so passed to J. K. Place & Co. I would not so regard it. If there was such an item open on the books showing a balance due the concern, I had an interest in it. If I withdrew the whole $168,000, assuming that on the 30th December, 1865, there was an account on the books, at page 83 of the ledger, with lots on 43d street, and showing that concern owed the firm $650, and assuming that on the 30th November, 1865, James K. Place and James D. Sparkman had paid me $168,000 in full extinguishment of my interest, I understand that I had nothing to do with it after that. Supposing that on our books there stood an account on the 30th November, 1865, of bonds and mortgages of property of Michigan, showing a balance due to the concern of $10,000, and J. K. Place & Co., had on that day paid me $168,000, I do not understand that I had any remaining interest in the bonds and mortgages in Michigan, except for the purpose of having them applied to the payment of the debts
382 of J. K. & E. B. Place. I would not have been entitled to withdraw any further sum from the proceeds of those bonds and mortgages.

On the 2d of December, 1865, I still held my interest, I believe, in Place and Turlay. I left $168,000 in the firm of J. K. Place & Co., on deposit, I suppose; it was to my credit on J. K. & E. B. Place's books. I don't understand that I had anything to do with J. K. Place & Co. I received very small sums of money for the next two years from James K. Place & Co. They didn't lend it to me, but paid it because it was due to me; I received these sums because they were owing to me from J. K. Place & Co. The money was paid in to my credit, and was passed to my credit, and I called for it from time to time as I wanted it, and they paid it to me and charged it to my account. I suppose they owed it to me, subject to certain rebatements. The firm of J. K. Place & Co., on or about December 1st, 1865, was liable to J. K. & E. B. Place, in liquidation, for the value of the merchandise of J. K. & E. B. Place, which J. K. Place & Co. received. I didn't have $168,000 in money on the 30th of November; it had not all been paid in at that time. I think J. K. & E. B. Place had $168,000 in money on the 30th of November, 1865, in different banks. I don't remember what the balances were deposited to their credit. Three-eighths of that money belonged to me, subject to the payment of the debts of J. K. & E. B. Place. All the money I had was three-eighths. When I say I left $168,000 on deposit with J. K. Place & Co. on the 30th of November, 1865, I do not mean anything more than that that sum was the estimated value of my interest in the assets of my firm, and that I left the assets of my firm in the hands of J. K. Place and J. D. Sparkman, and that I was not to be charged for any loss or depreciation of merchandise. I do not mean to say that they had $168,000 of my money, because it was not all paid in. I do not remember that I have ever been advised by any lawyer that on the 2d day of December, 1865, I could have maintained a suit
383 against J. K. Place and Ja's D. Sparkman, or either of them, for $168,000. I think on the 30th November, 1865, James K. Place & Co. became liable to J. K. & E. B. Place for about $1,400,000, the value of the merchandise—the books will show. They agreed to pay the debts, as they matured, of J. K. & E. B. Place. I think it was James K. Place I conversed with on the subject of their paying the debts of J. K. & E. B. Place. I don't remember the conversation. He said so, but I don't remember the exact time; it was about the time of the dissolution. There was an understanding tha the would pay me $168,000, subject to certain rebatements; the exact conversation I don't remember. I didn't sell him my interest in the property of J. K. & E. B. Place outside of the merchandise. I didn't sell the debts, only the merchandise. They only owed me my share of the value of the merchandise as estimated. If anybody owed J. K. & E. B. Place $1,474,000, my share of it would be three-eighths. I have not gone into a calculation on it, but it would be about $750,000. They have not paid me so much as $200,000. I am not worth $500,000 on that transaction, because the money was used to pay the debts of J. K. & E. B. Place. I do not understand that I said they agreed to pay me my share of $1,400,000. They simply took the merchandise and agreed to account for it at the inventory prices, and to pay me my share of the entire assets of J. K. & E. B. Place remaining after the payment of the debts, and that I believe they have done. I believe I have already stated that they agreed to take the stock at the valuation and pay the outstanding debts that the concern owed out of the proceeds, and to use the other assets of the concern the same way. There are some debts of J. K. & E. B. Place still due; one is to Mr. Anderson for $25,000. I have paid something on account of it, or procured a payment to be made; another debt to R. Ten Broeck,

and another to Ten Broeck and Silkman. There are some debts due to J. K. & E. B. Place from the South. Whether they are good or not I don't know. There are some bonds and mortgages in
384 Michigan, and some real estate in Michigan. I don't know anything about any $40,000 of United States bonds not charged on the books of J. K. & E. B. Place to anybody. The bonds were divided up among the different partners. Assuming that the bonds and mortgages of Michigan property and the real estate in Michigan should be now converted into cash on their face, and assuming that J. K. & E. B. Place now owed about $30,000, and that I have drawn the $168,000 and $28,000 besides, I should be entitled to three-eighths of the proceeds of these bonds and mortgages and property in Michigan, after the payment of the debts referred to.

EPHRAIM B. PLACE.

Affirmed to before me this 27th April, 1870.

R. E. STILWELL,
Special Examiner, &c.

EXHIBIT 30.

Ephraim B. Place.

(Pp. 6, 7, 8, 9, 18 and 19, Ledger A.)

1865.						
Jan.	12	To cash		102	$1,650 00	
	31	"		109	800 00	
Feb.	28	"		124	1,600 00	
March	31	"		138	3,000 00	
April	3	"		139	500 00	
	7	"		142	150 00	
	10	"		144	500 00	
	20	"		156	750 00	
May	3	"		158	160 00	
	4	"		159	500 00	
	13	"		168	700 00	
	31	"		184	1,400 00	
June	22	"		199	1,000 00	
	30	"		204	600 00	
July	6	"		207	500 00	
	31	"		224	890 00	
Aug.	1	"		225	500 00	
	21	"		239	2,000 00	
385						
Aug.	21	To cash		246	$400 00	
Sept.	8	"		252	500 00	
	16	"		257	500 00	
	28	"		265	1,000 00	
	30	"		267	950 00	
Oct.	31	"		288	750 00	
Nov.	3	"		290	500 00	
	30	"		310	910 00	
	"	"		314	37 00	
	"	"	E. B. Place, "loan ac."	237	19,388 75	
	"	"	U. S. 7.30 bonds	253	34,816 78	
	"	"	profit and loss, 1860	240	39 29	
Nov.	30	To profit and loss, 1857		254	$164 08	
	"	"	sundries	249	1,035 96	
	"	"	Place & Turlay	258	25,000 00	
	"	"	E. B. Place, "bond and mortgage"	260	78,600 00	
	"	"	balance		168,529 96	

Exhibit 30—Continued.

1865.					
Jan. 1	By amount from Ledger B	10			$190,570 38
Nov. 30	" interest	240			11,596 94
"	" profit and loss, 1863	244			1,548 75
"	" " 1858	254			120 05
"	" " 1859	"			135 93
"	" stock	239			75,000 00
"	" profit and loss, 1865	261			71,399 00
			$350,371 82		$350,371 82
1865.					
Nov. 30	By balance				$168,529 96
1866.					
March 28	" premium on specie	16			12,618 17
1	" cash	51			102 75
29	" "	75			62 42
April 30	" interest	18			64 17
May 10	" cash	105			375 00
31	" E. B. Place, "bond and mortgage"	32			2,751 00
June 1	" interest	36			1,050 00
30	" "	39			4,707 78
1865.					
Dec. 2	To cash	315	3,225 02		
4	"	"	25 05		
13	"	318	45 00		
14	"	319	3,019 20		
386					
Dec. 15	To cash	"	$66 59		
18	"	321	25 00		
21	"	323	50 00		
23	"	326	309 13		
27	"	328	564 86		
30	"	331	50 00		
1866.					
Jan. 3	"	2	257 00		
			$7,636 85		$190,261 25
			D'R.		C'R.
1866.	Forward		$7,636 85		$190,261 25
Jan. 2	To cash	1	50 00		
5	"	3	51 10		
6	"	4	21 10		
9	"	5	50 00		
13	"	9	11 32		
16	"	11	199 00		
17	"	"	18 67		
18	"	13	100 00		
20	To James D. Sparkman	6	4,650 00		
Feb. 2	" cash	26	501 00		
1	" Mrs. S. P. Perry	11	2,500 00		
March 5	To cash	55	32 75		
17	"	66	2,005 60		
21	"	69	6 60		
26	"	73	250 00		
31	"	77	69 23		
31	To L. Frost & Co., 1st Feb	16	13,725 00		
April 2	To cash	79	500 00		
16	"	87	2,546 80		
17	"	88	500 00		
March 10	To J. D. Sparkman	19	12,000 00		
April 30	" E. B. Place, "loan acc't"	19	144 77		
24	" cash	93	45 87		
	" P. & T., No. 2, from Dec. 1, 1865	21	30,000 00		

EXHIBIT 30—Continued.

June 30	" L. Frost & Co	37	5,000 00	.....
1865.					
Dec. 6	" cash	316	215 00	.....
1866.					
June 30	" balance	.....	197,430 60	.....
			$190,261 25	$190,261 25
387					
1866.					
July 1	By balance	.....	.....	$107,430 60
2	" cash	149	.....	175 00
Aug. 2	" "	168	.....	500 00
10	" "	173	.....	462 50
28	" "	188	.....	62 42
Sep. 10	" "	197	.....	110 25
15	" "	204	.....	119 00
Oct. 4	" "	219	.....	177 00
4	" "	220	.....	53 65
8	" "	223	.....	171 60
12	" "	228	.....	700 00
Oct. 12	" J. D. Sp., March 10, '66	66	.....	$2,000 00
Nov. 19	" cash	267	.....	375 00
30	" "	278	.....	62 42
Dec. 1	" E. B. Place, "B. & M."	75	.....	2,751 00
1	" interest	74	.....	1,050 00
31	" "	80	.....	3,279 09
31	" cash	308	.....	583 33
31	" profit and loss, 1864	89	.....	1,694 44
31	" " 1860	90	.....	37 50
31	" " 1858	91	.....	209 93
1866.					
July 1	To L. Frost & Co	44	$10,000 00	.....
Aug. 1	" cash	167	37 00	.....
20	" "	181	389 89	.....
24	" "	185	45 97	.....
27	" "	186	211 50	.....
Sept. 10	" "	197	451 00	.....
15	" "	204	484 04	.....
	" M'f't'rs' B'k from 24th Ap'l	57	2,060 40	.....
26	" cash	213	1,390 00	.....
	" sundries from 1st Aug	57	587 50	.....
	" E. B. P., "gold ac." from 10th Aug	59	2,980 52	.....
Oct. 5	" cash	221	358 61	.....
25	" "	242	745 88	.....
Nov. 3	" "	252	8,820 00	.....
8	" "	258	712 78	.....
			$29,275 09	$121,379 73
1866.	Forward	.....	$29,275 09	$121,379 73
Nov. 17	To cash	266	687 78	.....
22	"	271	1,234 83	.....
Dec. 6	"	284	950 43	.....
7	"	285	1,000 00	.....
388					
Dec. 11	To cash	288	$423 92	.....
28	" "	303	1,093 67	.....
31	" "	308	10 00	.....
"	" Union Sugar Co	93	8,650 13	.....
"	" balance	.....	78,053 88	.....
			$121,379 73	$121,379 73

EXHIBIT 30—Continued.

1866.					
Dec. 31	By balance				$78,053 88
1867.					
Jan. 2	" cash	1			$175 00
Feb. 2	" "	28			1,050 00
Feb. 20	By cash	44			$10 70
March 7	" "	57			5,070 15
15	" "	63			119 00
April 8	" "	78			700 00
9	" "	78			145 80
May 27	" "	113			490 51
June 1	" P. & T., "Special No. 2"	137			1,050 00
July 1	" Allaire Works	137			233 63
May 31	" E. B. P., "bond & m't'ge"	138			2,751 00
July 1	" cash	135			352 00
16	" "	144			175 00
29	" "	152			32 13
Aug. 14	" interest	139			1,796 27
14	" E. B. Place, "gold acc't"	149			9,100 00
Nov. 1	" expense	173			1,000 00
4	" cash	222			14 25
19	" "	233			2,424 00
	" P. & T., special No. 2	177			1,015 00
	" J. K. Place	202			400 00
	" balance				25,283 52
1867.					
Jan. 9	To cash	6	$50 00		
11	"	6	297 72		
Feb. 2	"	28	925 33		
5	"	30	209 97		
13	"	38	927 11		
19	"	43	297 24		
20	"	44	125 00		
27	"	50	406 67		
28	"	50	338 61		
March 13	"	62	1,729 87		
22	"	69	653 33		
April 1	"	73	1,304 67		
6	"	76	763 66		
12	"	80	874 47		
389					
April 15	To cash	81	$70 00		
23	"	86	80 00		
25	"	88	514 11		
26	"	88	105 75		
29	"	90	504 75		
30	"	91	500 00		
May 7	"	97	500 00		
8	"	98	4 50		
10	"	99	50 00		
15	"	103	107 03		
20	"	107	50 00		
24	"	111	58 15		
25	"	112	7 25		
May 27	To cash	112	$50 00		
June 1	"	116	31 55		
4	"	117	1,000 00		
6	"	119	634 97		
			$13,171 71		$131,441 84
1867.	" forward		$13,171 71		$131,441 84
June 12	"	122	886 00		
11	"	122	2,800 00		
14	"	124	97 00		

EXHIBIT 30—Continued.

	15	"		125	1,387 00	
	15	"		125	25 00	
	17	"		126	497 51	
	24	"		130	84 00	
	25	"		130	1,190 00	
	27	"		132	172 85	
	28	"		132	1,158 05	
July	1	"		135	352 00	
	1	"		135	2,602 20	
	3	"		136	1,099 60	
	8	"		139	122 00	
	9	"		139	147 92	
	12	"		142	100 80	
	16	"		144	1,675 00	
	17	"		145	643 50	
	18	"		147	147 00	
	19	"		147	560 00	
	23	"		148	105 10	
	24	"		149	4 25	
	29	"		152	1,200 00	
	28	"		153	99 45	
	30	"		153	61 15	
	31	"		154	118 88	
Aug.	1	"		156	5,545 00	
	3	"		157	626 65	
390						
Aug.	6	To cash		158	$125 00	
March	23	"	Place Sugar Refinery	144	50,000 00	
Aug.	9	To cash		160	2,000 00	
	10	"		161	417 82	
	13	"		163	1,700 00	
	15	"		164	186 00	
	19	"		166	2,612 00	
	20	"		167	17 50	
	23	"		168	40 00	
	26	"		170	4,737 90	
Aug.	28	To cash		171	$100 65	
	29	"		172	832 00	
	31	"		174	401 98	
Sept.	2	"		175	240 67	
	3	"		176	500 00	
	7	"		179	131 75	
	10	"		180	500 00	
	12	"		182	200 16	
	13	"		183	60 00	
	16	"		184	50 00	
	17	"		185	55 00	
	19	"		186	113 63	
	20	"		187	173 00	
	21	"		188	17 00	
	23	"		189	150 00	
	25	"		191	357 75	
	26	"		192	206 30	
	27	"		192	50 00	
	28	"		193	225 18	
Oct.	1	"		195	105 50	
	3	"		197	43 00	
	4	"		198	120 36	
	5	"		199	2,244 60	
	8	"		201	117 75	
	9	"		202	17 88	
	11	"		204	88 75	
	14	"		206	50 00	
	15	"		206	52 76	
	16	"		207	1,484 86	
					$107,407 76	$131,441 84

EXHIBIT 30—Continued.

1867.		Forward		$107,407 76	$131,441 81
Oct. 18	To cash		209	377 65	
21	"		212	125 00	
25	"		215	30 00	
28	"		216	246 32	
31	"		218	44 80	
391					
Nov. 1	To cash Ja's K. Place		173	$800 00	
4	" cash		222	1,020 60	
5	"		223	100 00	
6	"		224	972 30	
9	"		227	185 50	
11	"		228	140 00	
12	"		228	3,848 12	
13	"		229	75 00	
15	"		231	741 00	
18	"		232	3,000 00	
Nov. 21	"		234	$46 00	
20	"	M'r's D. Place	174	153 41	
20	"	N. Y. and Nevada M'g Co	182	1,498 00	
20	"	m'd'se, M'r's E. B. P., Oct. 31	348	7 55	
20		"	292	2 05	
20	"	interest	183	49 96	
Dec. 2	"		238	52 00	
23	"		240	65 00	
23	"	J. K. & E. B. Place, No. 3	196	4,190 55	
23	"	"	197	4,792 50	
23	"	R. e'st Michigan	197	455 77	
23	"	balance	.....	1,015 00	
				$131,441 84	$131,441 84
	To balance		.....	$25,283 52	
1867.					
Dec. 1	By Place & Turley, S. No. 2		177	.....	1,015 00

E. B. PLACE.

(Account, with U. S. bonds, printed at fo. 242.)

392 JAMES D. SPARKMAN, called and sworn as a witness on the part of the plaintiff, deposes: I am one of the defendants in this suit. I was a special partner with James K. Place for about eleven years, and about two years a general partner. We had written articles of agreement for the general partnership. I now produce them, as follows. (Printed as Ex't 16, fo. 256.)

I contributed cash to the capital of the special partnership of J. K. & E. B. Place. When the general partnership was formed, I had in the concern more money than my portion of the capital required, that is, more than $200,000. I did not draw the excess; I drew occasionally as I needed the funds, but not in reference to any excess that I had in the concern. I can't recollect now any sum paid by me into the firm of James K. Place & Company, any single amount at one time. I
393 know that I have paid into the concern at different times various sums of money. I cannot state the aggregate of such deposits; it was mixed up with the profits of the concern. The last statement I had, it gave me, I think, a balance of about $256,000 or $250,000. I now produce statement, as follows:

Memorandum of receipts and disbursements for account of J. D. Sparkman.

			D'R.
1865.			
Nov. 30		To capital stock	$200,000 00
1866.			
Jan'y 30		To cash	$50 00
" 31		" 1 half-chest Oolong tea, 43 @ $1—55.90;	
" "		" expressage on above, 30 cts	56 20
March 14		" cash deposited against loan of $7,467.50	
		" gold borrowed against purchase of 1,000 bags pepper, ex Casilda	10,000 00
		" cash paid H. Thompson	200 00
27		" " " "	5,000 00
10		" cash paid E. B. Place for two lots on 43d street	2,000 00
May 1		" rent of house 25 W. 42d street, to date	182 28
June 15		" cash	50 00
July 10		" paid Place & Turlay, bill sugar, July	75 75
" 11		" 1 mat Java coffee, roasted	22 69
" 17		" 1 case Renault brandy, $18 gold, $1.50	27 00
" 23		" cash	20,000 00
Aug't 21		" " Place & Turlay, bill sugar, August 22d	35 44
Sept. 3		" 1 case sparkling Johanisberg wine	15 00
" 11		" 1½ chest Oolong tea, at $1.24 $53 32	
" "		" 10 lbs, Y. Ho., @ $1.80 18 00	
" "		" expressage on above 0 50	
			71 82
" 19		" 2 cases sparkling Johanisberg wine	41 83
Oct'r 11		" cash paid James K. Place	8 34
" 15		" "	20,000 00
" 26		" paid Maitland, Phelps & Co. for 200 tons chalk, £34 15 st'g, at 109¼, $169.33 gold, at 140 $237 06	
		Marine insurance on above $4 55	
			241 61
" 28		" cash paid J. M. Raymond & Co	387 00
394			
Nov. 28		To box Souchong tea, 20 @ 1.50 $30 00	
		" ¼ chest Oolong tea, @ $1.50 60 00	
		" 1 bbl. crush' sugar, 1.88 @ 15¾ 28 31	
			$118 91
1866.			
Dec'r 4		" 1 mat roasted Java coffee, 23 @ 42 cts	9 66
" 22		" paid Giles, Wales & Co	163 85
" 26		" Gomez, Wallis & Co. $169.68 gold @ 131¾	223 55
" 17		" 3 bbls. flour, at $18 each $54 00	
		" 1 " powdered sugar, 261 @ 15c 39 15	
		" 1 " granulated, 217 @ 15 ct's 32 55	
			125 70
" 27		" cash	10,000 00
" 31		" paid Place & Seaman	34 41
" "		" paid cost of 75 shares stock in Union Sugar Co., with interest from Nov. 9, 1864, to date	5,792 50
		" balance	10,255 55
			$285,189 09

			C'R.
1865.			
Nov. 30		By balance of account rendered	$262,719 48
1866.			
Jan'y 29		By cash from E. B. Place, $5,000 Kansas State bonds, @ 93	4,650 00
March 10		By cash from E. B. Place, on purchase of house 25 W. 42d street	12,000 00
"		By cash from James K. Place, for lot on W. 43d street, sold him	1,000 00
Dec'r 31		Profit and loss, 1858	139 95
" "		" " 1860	25 00

in there from the bank, and from my other business. I would generally take the round among all the concerns that I was interested in. I did not examine the books of Place & Co. I got my knowledge of their being in trouble from statements made to me, sometimes by the clerks and sometimes by M'r Place. My impression is that if I had the money and didn't want to use it, I would let the concern have it, and they allowed me interest for what money I paid over my special capital. Sometimes I would loan it, not because they needed it exactly, but to give them a good balance in the bank, so that they could more readily obtain discounts. They kept their accounts in several banks; the Park Bank, and one or two others. I, at the beginning of the year 1867, had not, to any extent, impaired or changed the character of my private estate for the purpose of providing my firm with money.

Q. 9. Was anything said to you about the condition or necessities of the firm?

A. A statement had been made. At the previous year the firm had lost some money, but was in a perfectly sound condition. It came to me in conversation with James K. Place. I understood they had lost about $200,000. I kept my own private accounts in the Manufacturers' National Bank. My partner, besides James K. Place, in the special partnership of which I have spoken, was Ephraim B. Place. I did not, to my recollection, make any arrangement for purchasing, or any arrangement for the winding up of that business. At the time of the forming of the general partnership, there was no change made in my interest in the concern. M'r E. B. Place went out of the concern. He did not sell his interest that I know of, unless he sold it to his brother. He didn't sell it to J. K. Place & Co. I was not concerned in making any arrangement of any kind with Ephraim B. Place. All that was said to me was that Ephraim B. Place was going out of the concern, and James K. Place asked me if I would remain with the
399 concern—if I was going to leave him too. I understood that Ephraim B. Place was at liberty to withdraw from the assets of the special partnership the amount of his interest if he went out of the concern.

Q. 10. Did your firm of James K. Place & Co., so far as you ever knew of, agree to assume the indebtedness of James K. Place and Ephraim B. Place.

(Objected to.)

A. I suppose they did, because they had the means in the concern belonging to E. B. Place to pay what he owed. I did not understand that we had anything to do with Ephraim B. Place paying his debts. He was to pay his own debts out of his interest. I presume the firm of J. K. and E. B. Place owed debts matured and maturing on December, 1865. I did not understand I and M'r James K. Place undertook to see Ephraim B. Place clear of his debts. I had no understanding in the matter. I left the whole concern with James K. Place and M'r Wallis, who arranged the whole thing. I do not know of his having made any arrangement on my behalf, or on behalf of James K. Place & Co., that James K. Place & Co. would see the whole firm clear of its debts. I have no recollection of having any such understanding. My information about the affairs and arrangements of my firm is not very full and precise. The books of James K. Place & Co. were kept by Lewis W. Burritt, jr., assisted by John B. Morgan. M'r Burritt had been in the employ of myself and M'r Place for a number of years. Thomas T. Sheffield was in the employment of James K. Place & Co. I think he had charge of the tea department under the direction of James K. Place. The firm's ordinary method of effecting payment of their debts

prior to November, 1867, was that when their notes became due they took them up. If their debts were not in the form of notes, they were collected at the desk, I suppose. So far as I know, they never, before November 19th, 1867, had a trustee to pay their debts. In paying their debts, and collecting their assets they usually dealt directly with their creditors and debtors. I think I first knew that the firm was no longer able to
400 pay its debts in that way two or three days before the suspension. I think they concluded that they could not go on any longer and made up their minds to stop payment. I don't think it was caused by any payment that was due. I think they had funds to meet payments when they failed, but they saw ahead they would not be able to pay their debts, and, for the protection of their creditors, they stopped; they used their assets up to the last; their debts matured—they had no expectation of bad debts before their failure, but the combination of circumstances, the pressure brought to bear upon them by the different banks, they saw they must stop. I mean that they were largely indebted to several parties who could call upon them very soon for payment. If they paid these debts there was a number of debts besides that they would be unable to pay, and it would be preferring these creditors to others. As soon as they saw that they could not bridge over and pay all their debts they determined to stop. So far as I know, up to the 19th of November, 1867, it had not been in the ordinary course of their business for them to have any trustee or intermediate agent for the payment of their debts except the clerks. I never heard of a trustee paying their debts in any way; it had not been in the ordinary course of their business to do anything but pay their debts in full when they matured; it had not been in the ordinary course of their business, so far as I know, to provide for the payment of their debts, proportionately, without reference to the maturity of such debts, and they expected to pay all their debts; it was quite out of the course of their business for them to entertain the idea of having a trustee to pay their debts. Prior to their suspension, their condition for several days was troublesome. I was under a good deal of apprehension (their payments being large and not being able to raise money) that they would not be able to go through; but two days before their failure I understood that they had made such arrangements with the banks that they would go through, and I said to
401 my son that the concern was out of danger. I got information of such an arrangement from M'r Place. He had made such an arrangement with certain bankers, I think more particularly with M'r Phipps. He had made an arrangement to extend the time on what he owed. I think he so stated to me. After making this statement to my son, when I next heard of the inability of the firm to carry on its business in the ordinary course, was when I heard that other bankers, I think Brown Brothers & Co., had come down and wanted additional security; Duncan Sherman & Co., I think it was.

Q. 11. Was the condition of the firm then spoken of—its general condition, I mean—as to its ultimate ability to pay its debts?

A. Not to my knowledge; some time previous there had been. I had a conversation with M'r Place. The only conversation I recollect with M'r Place was on his making a purchase from some party and having made a statement, which statement he told me he had made; I think I said that I thought his statement was too large; he mentioned to the parties that the concern was worth six or seven hundred thousand dollars, and I told him I thought he was mistaken, that the previous year the business had been a loss—he had lost his entire interest in the capital of the concern; and he said, no, he had yet one hundred thousand

dollars left. I supposed I was worth $500,000, and let the statement go as sound, and I suppose that my capital at that time was being correct. that M'r Place was worth $100,000.

Q. 12. How much did you suppose you had in the concern?

(Objected to.)

A. Well, I suppose I had about $200,000. I estimated my property outside of the concern at about $300,000. At the time of that conversation I supposed I had $200,000 in the concern. I supposed that I had more than that sum—$250,000—but on reflection on that thing, I had paid $70,000 in the sugar refinery which was charged to me, which lessened the amount that I had in the concern of James K. Place & Co.

Q. 13. Do you mean to say that at the time you actually had $180,000?

(Objected to.)

402 A. The books show $132,000. I was disappointed; I supposed I had more.

Q. 14. Do you think your interest in the assets of that firm is now worth $132,000?

(Objected to.)

A. No; I don't think it is worth anything; the concern turns out unable to pay its debts, and of course my interest is worth nothing.

Q. 15. Has your firm lost anything since the period when you supposed your interest was worth $132,000?

(Objected.)

A. I don't know what they have lost. I suppose they have in the collection of their debts. I suppose their receipts won't show as much as they were supposed to be worth. My impression is that the goods on hand depreciated in value; I cannot state to what extent or anywhere near. They also lost on bad debts; they met with very heavy losses in the sale of goods during that year from May up to the time of their failure. I don't know that I can give that correctly, sir. I will state this, that in my general impression in regard to what I was worth myself in the concern, deducting some $50,000 which I knew I had lost the previous year, that I still had left me in that concern, provided their profits equalled their losses, I was worth that amount of money. If I had taken into account at that time the loss which I have since ascertained to have occurred, I would not have supposed myself worth that amount. If I had known the facts I probably would not have estimated my interest at anything. I probably would not have considered the firm as in fact insolvent—I mean without referring to my private property. I think I was the least intelligent person as to the affairs of the firm.

Q. 16. Were you deceived as to the condition of the firm when you were allowed to suppose that you were worth $250,000?

(Objected to.)

A. I can't say intentionally that I was; I suppose I must have been, in fact, by statements that had been handed to me of the condition of the concern, and my want of knowledge of the true condition of the concern; statements were not in writing; let me state, to make

403 the thing perhaps more clear, statements were made to me in regard to profits where large sales were made to $10,000 or $20,000, and I think out of regard to my feelings that there were no faithful statements made to me in regard to the losses of the concern.

Q. 17. Who knew the value of the assets the best, you or M'r Place, as far as the assets consisted of merchandise?

A. M'r Place, of course; and he knew the state of the markets best; I think probably the salesman was very well posted; he knew, perhaps, changes that occurred in the market earlier than M'r Place did, being

the salesman. Since the time when I and M'r Place expressed the conclusion that, taking my private property into account, we two together were worth $600,000, I have not heard of any losses except depreciation in merchandize, which I did not know of to my recollection. When our firm suspended they made an assignment to prevent certain creditors getting advantage of others. By one creditor getting the advantage over another, I mean they owed a number of parties; some of them had commenced suits against them. I know that from James K. Place. I presume there was process served upon me, but I haven't any distinct recollection of it. To prevent these parties getting any advantage over the other creditors, they made an assignment. Our books were in the store. I knew that there was at one time some tussle between the sheriff, or some officer, to get possession of the books, and that some were taken away. I was there when that happened. I saw a man there who attempted to get the books, and one of the clerks, I don't know who, closed the safe, and the officer, I think, took hold of him and there was a tussle. He had been there, I think, several days in charge of the things there; he claimed to be an officer under the sheriff.

Q. 18. With what process did you understand?

A. M'r Wallis can tell you that, I suppose. I understood he claimed to have the authority of the sheriff. I suppose it was an attachment.

Q. 19. What makes you think that M'r Wallis knows better than you do?

404 A. He was my lawyer, my legal counsel. Any paper that came to me I sent it up to him. I placed my interest in his hands from the commencement of my difficulties. I did not understand that this officer claimed to have authority from the sheriff to take the books. I understood that he had authority to take charge of the books, to see that they were not removed. After this attempt to get at the books nothing was done with the books by Place & Co., or any of their employees, to my knowledge. I think they may have removed some of the books. M'r Place removed them, I don't know where. When I corrected M'r Place's statement to me about the firm being worth $700,000, and stated that I supposed he had lost his entire interest in the capital of the concern, I referred to the interest that M'r Place had in that concern—that he had lost, I think, nearly or quite all his interest. The interest which I supposed he had lost was not an interest of $600,000—he never had that capital in the business of his own—it was merely a nominal amount; he never put in $600,000 cash into the concern. He was charged with that amount of capital; he paid in what means he had; they were different at different times. On December 1st, 1865, I have understood that he was worth $250,000. I could not say where that property was; he may have had that capital in real estate or something else. I believe that he was worth $250,000; whether it was to his credit on the books or not, I don't know. That $250,000 was either cash or property belonging to him personally.

Q. 20. What kind of property belonging to him personally do you believe it was?

A. I never made that inquiry; it was there to his credit I suppose; I didn't see his account. At the beginning of the partnership of J. K. Place & Co., in the early part of the year, the business was very profitable, and I understood that the concern had been making money up to a certain date, say April or May, 1866; how much, I don't know. I supposed his interest had increased from $250,000 to some indefinite sum. I did not suppose it had increased to anything like $600,000.

405 When, in the summer or fall of 1867, I said to him, that I supposed

he had lost his entire interest, I meant the $250,000 which stood to his credit, and his share also of the subsequent profits. The knowledge or information of the facts I then had which made me suppose and state that he had lost his entire interest, was the loss on the sale of goods; prices went down, and I heard, from time to time, of losses that had been made by the concern. It was not from any books or papers, but it was a running account in my head, that was all, that the concern must have lost a good deal of money. That information had not got outside of the concern that I know of. I heard it from statements that were made to me from time to time of sales, and the losses on sales of coffee and tea. Goods went down generally; there were heavy losses made, to what extent I don't know; I supposed it to be enough to swamp his entire interest, or nearly so, until he gave me the assurance that it hadn't. I never knew what he drew from the concern. I knew something about the style of his living and general expenses, that they were very heavy. In stating that I supposed he had lost his entire interest, I had taken those facts into account.

Q. 21. Had M'r Place, at the beginning, so far as you know, any property beyond the item to his credit on your books of $250,000?

A. He had built a house and stable which had cost him a great deal of money, and I supposed he had taken it from the concern, charging it to himself. I think he was charged with it subsequently to the statement that was made of his having $250,000. I never examined the books during the partnership and I knew nothing. I would have been no wiser, I suppose. If there was any particular thing that I wanted to know I would make inquiry.

Q. 22. Do you mean to say that you believe that the amounts which he had invested in building the house and stable remained his property?

A. I understood that his wife—I supposed that when the lease was taken it was done in the name of his wife, though I don't know
406 the fact certain. I supposed that the means that he had, that he availed himself of the interest in the concern to use the funds of the concern to build that house. I could not see how the house could be built any other way. I don't think his wife was worth anything much in her own right. I did not intend to give my share of that money to his wife. I never intended to give her anything.

Q. 23. Did you intend that the resources and assets of your concern should be diminished by the expenditure of money in building a house and stable on her property?

A. I didn't suppose that the interest of the concern would be damaged materially, as we generally could raise all the money we wanted. I knew from the beginning that M'r Place had not made up his $600,000. I supposed from time to time that he was expending money drawn from the concern upon building a house and stable upon property which stood partly in the name of his wife. I did not intend or agree with him that that money and its proceeds, namely, the house and stable, should be free from the claim of the firm. I never conversed with him upon that subject, or corresponded with him. I suppose that the whole of it came out of the concern, all that he required. I don't know exactly the amount; from $75,000 to $100,000, that was my idea of what was expended. I understand the bills of the contractors were paid at our counting-room. I used to see the contractors come in sometimes, I mean the parties who built the house. In estimating that M'r Place had lost his entire interest, I considered what was due by Sparkman, Place & King a good debt. I estimated the amount which stood to the debit of the Fifth avenue property, corner of Forty seventh street, as good. I

considered it a good asset, worth to the firm the amount it stood at on our books; as to goodness or badness, I estimated the amount which stood on our books to the debit of the lots on Forty-third street, good. Whatever money he, i. e., J. K. Place, expended and took out of the firm I considered good to the firm.

Q. 24. Did you consider the firm as entitled to collect the
407 amounts which stood respectively to the debit of the Fifth avenue property and the Forty-third street property?

A. I considered that he was indebted to the firm for that amount. I considered that all these assets formed a part of James K. Place's wealth, and I thought he was liable to the firm for them. I considered that property I have mentioned—the amount expended upon it—as a part of the wealth of the firm. I never corresponded so as to indicate a contrary understanding. When I supposed and stated that James K. Place had lost his entire interest in the firm, I considered as good the balance which stood to the debit of U. S. seven-thirty bonds, J. D. Sparkman. I considered it private property, left in trust there; I did not consider it an asset of the firm.

Q. 25. Did you take that into account in deciding or supposing that James K. Place had lost his entire interest, or was that an additional item of loss—was it outside of your calculations?

A. I think it must have been outside of my calculations. When I stated that James K. Place had lost his entire interest I must have supposed the amounts which stood to the credit of Place & Turlay as to be good. I don't know—I had no knowledge of the accounts as between James K. Place & Co. and the sugar refinery. When I told M'r Place that I supposed he had lost his entire interest, I think it was within a month or two of the failure of the concern. Now, at that time I did not know that on the 15th day of May, 1867, there stood to the debit of the Place Sugar Refinery on our books $293,886.98; I knew nothing about it. I think the Place Sugar Refinery was good for $293,886.98, (two hundred ninety-three thousand eight hundred and eighty-six 98-100 dollars,) taking the property—the cost of the property; I supposed it was always good for that. I knew that our firm was exchanging paper with the Place Sugar Refinery. I understood we were endorsing paper for the accommodation of the Place Sugar Refinery. The aforesaid statement of M'r Place was a casual conversation, and didn't occupy five minutes, perhaps.

Q. 26. Didn't you take into account the fact that $133,400 had
408 disappeared from that account by James K. Place & Co. taking stock in the refinery to that amount?

A. I have some confused ideas in regard to it. I understood that James K. Place and Ephraim B. Place, who were interested in that concern, had put in, out of the profits in another concern with Charley Place, a considerable amount, and that they made up the rest out of the moneys of the concern. I did not know that the Place Sugar Refinery had paid off $133,400 debt to our firm by issuing stock to that amount, which had been divided between me and James K. Place; I am entirely ignorant of those accounts. I had stock in that refinery, $70,000; that was given me for that portion, and charged to me in that concern, as I supposed. It was paid out of funds in the concern of James K. Place & Co. I understood that James K. Place got an equivalent amount—that he had an equivalent; it was divided into three equal parts.

Q. 27. Was the money of James K. Place & Co. originally paid to the Place Sugar Refinery as a subscription for stock, or was it originally paid out by way of loan, and then the stock taken by way of repayment?

A. I suppose the stock was taken in payment of a pre-existing debt. Besides my interest in the firm of J. K. Place & Co., what made up my estate to $500,000, in my opinion, was my large interest in the Cork and Whiting American Mills Company, in which I advanced about $145,000. The interest that I had, I think, is worth now from $15,000 to $20,000, depending on contingencies. I had an interest in Taylor & Young's concern, about $20,000 in value. I put that much money in it. It hardly pays its debts, in consequence of this failure; that interest amounts to nothing of moment. I had Manufacturers' Bank stock, some $18,000 or $20,000. I had $10,000 or $12,000, I can't state exactly the amount, of Corn Exchange Fire-Insurance Co. I think that was hypothecated with the Manufacturers' Bank. I had about $5,000 in the American Exchange Insurance Company. I had a store in Pearl street. It cost me $27,500. I think it was worth $35,000. I had a stable
409 in 43d street. I understood it cost about $19,000. M'r Place attended to that altogether. I supposed the stable would not have cost over $12,000, but I understood from him that the bills had made it cost $19,000. I think M'r Morgan held a mortgage on the rear part of the property for $4,000. I had $15,000 in a boot and shoe concern—a nephew of mine that I loaned money to. I had some oil-stock and some sugar-stock. I had another sugar stock company—the Union Sugar Company. It is not worth anything. I supposed it was a very big thing. I could have sold it at one time for one-half more. Then I had a great many miscellaneous items: oil-stocks, gold-stocks, copper-stocks. But this miscellaneous stock was not worth anything. I have no recollection of any other reason for the assignment than to prevent one creditor getting the advantage of another. I was told that there was no danger of judgment creditors getting an advantage over other creditors. I heard it from J. K. Place, I think, and may have heard it from M'r Wallis. I know the thing was talked of about these judgments getting a preference. I was at the same time told that the making of an assignment would prevent such preferences; I so understood. I was not told of any other method by which judgment creditors could be prevented from getting a preference.

Q. 28. Did you know that going into bankruptcy would prevent a creditor who had already levied an attachment from getting a preference?

A. I was not sufficiently conversant with law to know what the operation of that would be. I supposed that if the person had an attachment, if it was a legal attachment, it would hold against the bankrupt law.

Q. 29. How do you know that the operation of the bankrupt law would be to prevent a judgment creditor from getting a preference?

A. The law itself provided, I think—well, I cannot say how I got the information. I suppose that there were some judgments that were obtained before we went into bankruptcy, but not before we made an assignment. I think I have read in the newspapers either a copy of the
410 bankrupt act or some statement; it is information that I picked up probably in various ways. I supposed that judgment creditors would be prevented from getting a preference by proceedings under the bankrupt law; that would be the case. I supposed that debtors had to give up all their property, and that that property was divided. I understood that judgment creditors then would not get any preference. I supposed that the object which was intended by making the assignment could be accomplished by the bankrupt law. I supposed that an assignee had to be appointed by—well, I suppose the court. The cashier of our firm

and the salesman previously employed by our firm were not selected by me. It was altogether a matter with James K. Place, under the advice, I suppose, though I don't know, of counsel.

Q. 30. Had you, in your own mind, any preference for your cashier and salesman over a person appointed by the court?

A. Well, I knew them to be reliable, and would have preferred them. I coincided with what was done.

Q. 31. Did you give it consideration to that extent, preferring your cashier and your salesman because you knew them, to an uncertain assignee to be named by the court?

A. That was my preference. My impression is that the thing was only named to me about the time that it was done, but I approved of it, for the reason that I knew the men, because they were so selected by M'r Place. I left it with my counsel to see about the whole matter, and to do what was best for my interest, to see to me getting discharged from my debts. On the 20th of November, 1867, I did not transact any business or execute any papers in relation to the property on Fifth avenue, corner of Forty-seventh street, or in relation to the property in Forty-third street, to my knowledge. I have no recollection of doing it. On the 20th November, 1867, I did not take from the possession of the firm, or from the safe or other depository of the firm, any property whatever, to my recollection. I have no recollection of anything. I never looked inside of the safe for any property. I had little or nothing
411 to do with the business. On the 19th or 20th of November I did not transact any business or execute or deliver any papers in relation to any of the assets of the firm. I have no recollection of doing so. The assignees of Place & Co. kept the property affected by that assignment, and transacted their business at the store of J. K. Place & Co., No. 134 Front street.

Q. 32. Was it your understanding, intention, or expectation, at all times, that so far as Burritt and Sheffield acted at all, they should act outside of the bankrupt law?

A. Yes, sir.

Q. 32. Did you, at the time of making the voluntary assignment, intend to give your creditors the benefit of the provisions of the bankrupt law, so far as that property was concerned; that is, the property purported to be conveyed to Burritt and Sheffield?

A. I intended to give them the benefit of a distribution of it, but as assignees and not under the bankrupt law.

Q. 34. Is it a fair statement of your intentions to say that in respect to the property just referred to you did not intend to give your creditors the benefit of the bankrupt law?

A. No, sir; I did.

Q. 35. You did intend to give your creditors the benefit of the bankrupt law?

A. No, sir; the benefit of the property.

Q. 36. That is not what I asked you. In respect to the property which you supposed your voluntary assignees would get, did you intend that in the distribution of it—in the turning of it into money—your creditors should have the benefit of the provisions of the bankrupt law, or did you intend the contrary?

A. I intended the contrary; that is, I had no thought about the bankrupt affairs.

Q. 37. Did you intend that your assignees should appropriate the money which they might receive, as much for the benefit of creditors having judgments, as of other creditors?

A. Yes, sir; it was to make a fair distribution of their property. (Objected to.)

Q. 38. Did you intend that creditors who had no attachments should have as much benefit from it as creditors who had attachments?

A. If these attachments were legal they had a legal right to it; it was a matter of indifference to me who had the property, so
412 that the creditors who were entitled legally to it had it.

Q. 39. You meant, then, to assign it, subject to all legal claims then existing?

A. Yes, sir.

Q. 40. Did you not intend to displace any claim then existing?

A. No, sir. The balance appearing to my credit of $262,000 was a balance coming to me if the assets of J. K. Place and E. B. Place were collected and its liabilities paid. It was our habit not to credit anything but what was paid. It was left open in making up our statements from year to year; outstanding accounts that were doubtful, I think, were not entered in the statements. J. K. and E. B. Place carried on their business prior to their dissolution at No. 132 and 134 Front street. James K. Place & Co., the new firm, continued in business in the same place. The debts due the firm of J. K. & E. B. Place were collected by J. K. Place & Co. The liabilities of J. K. and E. B. Place were paid, so far as they were paid, by J. K. Place & Co. On the 1st of December, 1865, I was connected with my old business, the cork business, under the firm of Sparkman, Truslow & Co. I was president of a bank and president of an insurance company, and interested with Taylor & Young as special partner. I did not take any active part in the business of the firm of James K. Place & Co. at any time. It was understood when I became a general partner that I would not be required to take any active part. James K. Place managed the business of the firm wholly.

Q. 41. How much of your time did you spend at the office?

A. I was at the office almost every day, I think; only for a few minutes; sometimes a half hour. I did not on these occasions make any examination into its affairs. I did not at any time know about its affairs from any knowledge of my own. My time was wholly engrossed by my other pursuits; it was a great deal engrossed. It was not exclusively and entirely engrossed by business of any kind. My business hours were devoted to the bank and other duties and other interests that I had. During the year 1866 I was unable to give much
413 attention to my business affairs. My wife was taken ill with cancer, and I had to devote myself pretty much the whole year to her. I devoted myself to her to the exclusion almost entirely of business. She died in October—the first of October, I think it was—1866.

Q. 42. Look at the check now produced and shown to you and hereto annexed, of which a copy is contained in the deposition of Lewis W. Burritt, j'r, concerning which he has stated in his deposition that the true date should be January, 1867. It is dated January, 1866. State if the endorsement of Sparkman, Place & Co. on it is yours.

A. I think it is.

Q. 43. When was the check given—in January, 1866, or January, 1867?

(Mr. Wallis agreed that it was 1867.)

A. Yes, sir; it was.

Q. 44. What was that given for?

A. It must have been for money advanced to Sparkman, Place & Co

Q. 45. Money loaned, or was it M'r James K. Place's contribution to the capital?

A. That I could not say.

Q. 46. How much did he contribute to the capital?

A. $30,000.

Q. 47. About that time?

A. I think it was.

Q. 48. Where did the property of Sparkman, Place & Co. finally go to? Did it go to a corporation called Sparkman, Place & King?

A. Yes, sir.

Q. 49. Were you president of that corporation of Sparkman, Place & King?

A. Yes, sir.

Q. 50. Look at the notes now produced and shown you, of which the following are copies:

$10,000.] NEW YORK, *Oct.* 1*st*, 1867.

Twelve months after date, we promise to pay to the order of ourselves, interest from date, at the Manufacturers' National Bank, ten thousand dollars, value received.

SPARKMAN, PLACE & KING.
JA'S T. SPARKMAN, *Sec'y.*

No. 43, due.
[$5 int. rev. st'p.]

(Endorsement.)

Sparkman, Place & King. James T. Sparkman, sec'y.

OCT. 3, 1868.—Rec'd on the within note two thousand dollars and interest to 1st instant.

$2,000
700

$2,700

(On the margin:) Sparkman, Place & Co.

414 $10,000.] NEW YORK, *Oct.* 18, 1867.

Twelve months after date we promise to pay to the order of ourselves, with interest from date, at the Manufacturers' National Bank, ten thousand dollars, value received.

SPARKMAN, PLACE & KING.
JA'S T. SPARKMAN, *Sec'y.*

No. 44, due.
[$5 int. st'p.]

(Endorsement.)

Sparkman, Place & King. Ja's T. Sparkman, sec'y.

Received Oct. 21, '68, on the within 20 p'r c't of face, $2,000; interest to 18th Oct., 700; twenty-seven hundred dollars.

T. T. SHEFFIELD, *Assignee.*

(On the margin:) Sparkman, Place & Co.

$10,000.] NEW YORK, *Oct.* 29, 1867.

Twelve months after date we promise to pay to the order of ourselves, with interest from date, at the Manufacturers' National Bank, ten thousand dollars, value received.

SPARKMAN, PLACE & KING.
JA'S T. SPARKMAN, *Sec'y.*

No. 46, due.
[$5 int. rev. st'p.]

(Endorsed:)

Sparkman, Place & King. Ja's T. Sparkman, sec'y.
Received, Oct. 31, '68, on the within note, two thousand dollars.. $2,000
Interest in full to 29th October 700

$2,700

T. T. SHEFFIELD, *Assignee.*

(On the margin:) Sparkman, Place & Co.

$12,039.24.] NEW YORK, *Nov. 18th*, 1867.

Twelve months after date we promise to pay to the order of ourselves, with interest from date, at the Manufacturers' National Bank, twelve thousand and thirty-nine $\frac{24}{100}$ dollars, value received.

SPARKMAN, PLACE & KING.
JA'S T. SPARKMAN, *Sec'y.*

No. 48, due.
[$6.05 int. rev. st'ps.]

(Endorsement.)

Sparkman, Place & King. Ja's T. Sparkman, sec'y.
Rec'd Nov. 21, '68, on the within note, on account of principal..$2,439 24
Interest to 18th November 842 74

Thirty-two hundred and eighty-one $\frac{98}{100}$ $3,281 98

T. T. SHEFFIELD, *Assignee.*

(On the margin:) Sparkman, Place & Co.

415 $10,000.] NEW YORK, *Nov. 8*, 1867.

Twelve months after date we promise to pay to the order of ourselves, with interest from date, at the Manufacturers' National Bank, ten thousand dollars, value received.

SPARKMAN, PLACE & KING.
JA'S T. SPARKMAN, *Sec'y.*

No. 47, due.
[$5 rev. st'p.]

(Endorsement.)

Sparkman, Place & King. Ja's T. Sparkman, sec'y.
Rec'd Nov. 11, '68, on the within note, two thousand doll's $2,000
Interest to 8th November 700

Twenty seven hundred doll's..... $2,700

T. T. SHEFFIELD, *Assignee.*

(On the margin:) Sparkman, Place & Co.

728 32
$20,473 37

$21,201 69 NEW YORK, *Nov.* 16, 1867.

Two years after date we promise to pay to the order of ourselves, at the Manufacturers' National Bank, twenty thousand four hundred and seventy-three $\frac{37}{100}$ dollars, with interest at 7 p'r c't, payable semi-annually, value received.

SPARKMAN, PLACE & KING.
JA'S T. SPARKMAN, *Sec'y.*

No. 42, due Nov. 19, '69.
[$10.25 int. rev. st'ps, cancelled.]
(On the margin:) Sparkman, Place & Co.

(Endorsed.)

Sparkman, Place & King. Ja's T. Sparkman, sec'y.
May 16, 1868, rec'd interest, $716.56.
Nov. 16, 1868, rec'd interest, 716.56.
May 17, 1869, rec'd interest, 716.56.

COUNSEL. These are the notes which M'r Sedgwick holds as receiver; and say whether or not they were given for money advanced by J. K. Place & Co. to Sparkman, Place & King.

A. The books of Sparkman, Place & King would show.

Q. 51. Can't you tell?

A. Yes, sir; I see my son has endorsed that.

Q. 52. They were given for money loaned by James K. Place
416 & Co. to Sparkman, Place & King?

A. Yes, sir.

Q. 53. What shape did James K. Place's capital of $30,000 finally take? Shares of stock in Sparkman, Place & King?

A. Yes, sir; shares of stock.

Q. 54. In December, 1865, you settled some real estate on your wife, did you not?

A. Yes, sir.

Q. 55. Of the value of from $40,000 to $60,000 leasehold property?

A. Yes, sir.

Q. 56. How long did you live there after that, if at all?

A. I lived there——

Q. 57. October, 1868?

A. I think so; yes, sir. My wife died in 1866, and I remained there——

Q. 58. Until October, 1868; a year ago last October?

A. I think so; yes, sir.

Q. 59. I show you the original schedules in bankruptcy filed by yourself and M'r Place, and call your attention to that part of it which purports to enumerate your individual creditors, and which part is copied in evidence, as follows:

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SCHEDULE E.

Creditors holding securities.

[N. B.—Particulars of securities held, with dates of same, and when given to be stated under the names of the several creditors; and also particulars concerning each debt, as required by the 11th section of the act, and whether contracted as copartner or joint contractor with any other person; and, if so, with whom.]

Reference to ledger or voucher.	Names of creditors.	Residence and description.	When and where contracted.	Value of securities.	Amount of debt.
None	William Morgan, guardian	Brooklyn, New York. Bond secured by a mortgage on leasehold premises on the south side of 43d street, between 5th and 6th avenues, New York City.	New York City, spring of 1867.	$12,000 00	4,000 00
None	Mutual Life-Insurance Company of New York.	New York City. Bond secured by a mortgage on premises corner of Rutgers Place and Jefferson street, New York City, now owned by Sparkman, Place and King, a corporation, which debt has been assumed by said corporation.	New York City, January, 1867.	100,000 00	40,000 00
None	Williamsburgh Savings Bank.	Brooklyn, New York. Bond secured by a mortgage on property at Clove Road, Brooklyn.	Brooklyn, N. Y., about the year 1860.	8,000 00	5,000 00
418 None ..	James Lenox	New York City. Bond secured by a mortgage on premises No. 209 Pearl street, New York City.	New York City, about the year 1860.	35,000 00	18,000 00

There is no judgment, bond, bill of exchange, or promissory note recovered for, made, connected with, or appertaining to any or either of the above-mentioned claims, excepting or otherwise than as is therein particularly specified.

JAMES D. SPARKMAN, *Petitioner.*

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SCHEDULE E.

Creditors whose claims are unsecured.

[N. B.—When the name and residence (or either) of any drawer, maker, indorser, or holder of any bill or note, &c., are unknown, the fact must be stated; and also the name, residence, and occupation of the last holder known to the petitioner. The debt due to each creditor must be stated in full, and any claim by way of set-off stated in the schedule of property; the nature of each debt and demand, whether founded on written security, obligation, contract, or otherwise; and also the true cause and consideration of such indebtedness in each case, and the place where such indebtedness accrued.]

Reference to ledger or voucher.	Names of creditors.	Residences and occupations.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person; and, if so, with whom.
None	Corbet & Schenck. Individual names not known and cannot be ascertained.	New York City; carriage-makers.	$140 50	New York City, summer of 1867.	In open account for carriage repairing.
None	A. McGoldrick	New York City; blacksmith	28 00	New York City, summer of 1867.	In open account for blacksmith work.
None	Robert Watts	New York City; physician	2,000 00	New York City, during the years 1866 and 1867.	In open account for medical services.
None	C. Otto Ficht	New York City; painter.	475 00	New York City, summer of 1867.	In open account for work and materials.

None	Johnson & Rozell. Individual names not known.	New York City; feed dealers.	101 28	New York City, summer of 1867.	In open account for feed purchased.
None	John Dehers	New York City; plasterers.	84 75	New York City, summer of 1867.	In open account for plastering work.
420 None	W. W. Sawyer	New York City; sail-maker.	525 72	New York City, summer of 1867.	In open account for sails purchased of him.
None	J. T. Smith	New York City; mason	28 13	New York City, summer of 1867.	In open account for mason-work done.
None	J. G. Bisney	New York City; harness-maker.	95 75	New York City, summer of 1867.	In open account for repairing harness.
None	The Place Sugar Refinery	New York City; sugar refiners.	37 67	New York City, summer of 1867.	In open account for sugar purchased of it.
None	James Lennox	New York City; carpenter.	500 00	New York City, summer of 1867.	In open account for carpenter-work.
None	P. Puels	New York City; upholsterer.	224 75	New York City, summer of 1867.	In open account for upholsterer's work.
None	John McComack	New York City; carpenter.	200 00	New York City, summer of 1867.	In open account for carpenter's work.
None	John W. Buckmaster	Brooklyn, New York; unknown.	1,500 00	Brooklyn, New York, summer of 1865.	In open account for money loaned.
None	N. E. H. Wade	New York City; no business.	1,050 00	New York City, summer of 1865.	In open account for money loaned.
None	Manufacturers' National Bank.	New York City; bankers	927 42	New York City, summer of 1867.	In open account for money loaned.
None	Place & Seaman, composed of D. Newbury Place and Richard W. Seaman.	New York City; fruit-dealers.	68 61	New York City, summer of 1867.	In open account for goods purchased of them.
None	Wood Brothers, individual names unknown.	New York City; carriage-makers.	309 12	New York City, summer of 1867.	In open account for carriage-repairing.
None	Benjamin Lord	New York City; dentist	135 00	New York City, summer of 1867.	In open account for dentist work.
None	E. L. James	Brooklyn, New York; no business.	3,000 00	Brooklyn, New York, summer of 1866.	In open account for money loaned.
None	A. C. Lee	Saratoga Springs, N. Y; no business.	2,500 00	New York City, summer of 1865.	In open account for money loaned.
421 None	John L. Young, survivor of Taylor & Young.	New York City; merchant	10,464 75	New York City, during the years 1866 and 1867.	In open account for money loaned.
None	Saint Paul's Methodist Episcopal Mission Church.	New York City	100 00	New York City, spring of 1867.	In open account for subscription.
None	Stephen Philbin	New York City; plumber	24 57	New York City, summer of 1867.	In open account for plumbing-work.
None	John Shuster	Brooklyn, New York; marble-dealer.	17 00	Brooklyn, New York, summer of 1867.	In open account for repairing marble tiling.
None	Baker, Smith & Co., individual names unknown.	New York City; furnace-makers.	21 38	New York City, summer of 1867.	In open account for repairing furnace.
None	Fourth National Bank	New York City; bankers	15,000 00	New York City, fall of 1867	As endorser on the promissory notes of Taylor & Young and discontinued by said bank.
None	Manufacturers' National Bank.	New York City; bankers	52,900 00	New York City, during the year 1867.	As endorser on the promissory note of Taylor & Young for $7,500; as endorser of the promissory notes of Sparkman, Place & King for $40,000, and as endorser on the note of Sparkman & Co., of Philadelphia, Pennsylvania, for $5,500, all of which were discounted by said bank.

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SCHEDULE E—Continued.

Creditors whose claims are unsecured.

Reference to ledger or voucher.	Names of creditors.	Residences and occupation.	Amount.	When and where contracted.	Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, &c., and whether contracted as copartner or joint contractor with any other person; and, if so, with whom.
None	Spence, Montagu & Co., composed of James C. Spence, William W. Spence, Debril P. Montague, and Andrew Reid.	New York City; merchants.	62,657 35	New York City, September 18th and 25th, 1867.	James D. Sparkman was a stockholder and trustee in the Place Sugar Refinery, a corporation erected under the laws of the State of New York, holding stock at par value of $66,666.66. The Place Sugar Refinery are indebted to Spence, Montagu & Co. in the sum of $62,657.35, for goods purchased, for which its notes were given. And it is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being such stockholder or trustee.
None	Thomas J. Owen	New York City; merchant	$66,666 66	New York City, September 21st, 1867.	The said Place Sugar Refinery are indebted to Thomas J. Owen in the sum of $86,833.15, for goods purchased, for which its notes were given. And it is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee of the Place Sugar Refinery, as before mentioned.
423					
None	C. P. Fischer & Co., composed of Charles P. Fischer, Ernst Fischer, and Robert Whitman.	New York City; merchant	66,666 66	New York City, October 22d, 1867.	The said Place Sugar Refinery are claimed to be indebted to C. P. Fischer & Co. in the sum of $92,450 17, for goods purchased, for which its notes were given, and it is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee of the Place Sugar Refinery, as before mentioned.
None	A. T. Briggs	New York City; cooper ..	5,293 29	New York City, September 30th, 1867; October 31st, 1867; and November 19th, 1867.	The said Place Sugar Refinery is indebted to A. T. Briggs in the sum of $5,293 29 for goods purchased and work done in open account. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
424					
None	P. V. King & Co., composed of Peter V. King, Nathaniel W. Chater, and Joseph Lentilhon.	New York City; merchants.	16,185 81	New York City, November 8th, 1867.	The said Place Sugar Refinery is indebted to P. V. King & Co. in the sum of $16,185.81 for goods purchased in open account. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	Fowler & Jova, composed of James D. Fowler and John J. Jova.	New York City; merchants.	8,470 41	New York City, November 11th, 1867.	The said Place Sugar Refinery is indebted to Fowler & Jova in the sum of $8,740.41 for goods purchased in open account. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.

425 None ..	Davis, Pearson & Co; who compose this firm is unknown, and cannot be ascertained.	New York City; coal-dealers.	$1,942 50	New York City, October 23d and November 6th, 1867.	The said Place Sugar Refinery is indebted to Davis, Pearson & Co. in the sum of $1,942.50 in open account. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	Kalbfleisch & Sons; who compose this firm unknown, and cannot be ascertained.	New York City; merchants.	338 23	New York City, November 4th, 1867.	The said Place Sugar Refinery is indebted to Kalbfleisch & Sons in the sum of $338.23 in open account. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
426					
None	Small & Marsh. Individual names not known and cannot be ascertained.	New York City; brokers	$403 35	New York City, November 18th, 1867.	The said Place Sugar Refinery is indebted to Small & Marsh in the sum of $403.35 for commissions for the sale of goods for it in open account. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	H. Adams.....	New York City; broker.	314 55	New York City, November 27th, 1867.	The said Place Sugar Refinery is indebted to H. Adams in the sum of $314.55 for commissions for goods sold for it in open account. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None ..	The Manufacturers' National Bank.	New York City; bankers	65,000 00	New York City, August, September, October, November, 1867.	The Place Sugar Refinery are indebted to the Manufacturers' National Bank in the sum of $65,000 upon its eight promissory notes, endorsed by James K. Place & Co. and discounted by said bank. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
427					
None	Fourth National Bank	New York City; bankers	52, 624 00	New York City, July, September, and October, 1867.	The Place Sugar Refinery is indebted to the Fourth National Bank in the sum of $52,624 on seven notes, endorsed by James K. Place & Co. and discounted by said bank. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
428					
None	American Exchange National Bank.	New York City; bankers	39, 862 50	New York City, August 28th, 1867.	The Place Sugar Refinery is indebted to the American Exchange National Bank in the sum of $9,862.50 upon its two notes, discounted by said bank. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.
None	National Bank of the Republic.	New York City; bankers	9, 862 50	New York City, August 28th, 1867.	The Place Sugar Refinery is indebted to the National Bank of the Republic in the sum of $9,862 50 upon its two notes, discounted by said bank. It is claimed that James D. Sparkman may be liable for this indebtedness, or some part thereof, by reason of being a stockholder or trustee in the Place Sugar Refinery, as before mentioned.

429 Q. 60. What did you owe Corbett and Schenck for?
A. It says open account for carriage-repairing.
Q. 61. Did you consider that carriage your wife's or your own?
A. My son attended to that, M'r Bangs.
Q. 62. Did you own any carriage or horses?
A. Yes, sir; but not after my wife had.
Q. 63. Did your settlement on your wife embrace carriages or horses?
A. Yes, sir.
Q. 63½. About November, 1865?
A. Yes, sir.
Q. 64. What blacksmithing did A. McGoldrick do for you?
A. I suppose shoeing the horses.
A. Your wife's horses?
A. My wife's horses; yes, sir.
Q. 65. What work did C. Otto Ficht, painter, do for you to the amount of $475?
A. It must have been for painting the house.
Q. 66. The house embraced in the settlement to your wife?
A. Yes, sir.
Q. 67. What was the number of that house and the street?
A. Number 25 or 27; I am not certain.
Q. 68. West 43d street?
A. No, sir; 42d street.
Q. 69. West 42d street?
A. Yes, sir.
Q. 70. Then this item of C. Otto Ficht, $475, was for work on that house?
A. To the best of my recollection.
Q. 71. Did he do any other work for you anywhere else?
A. There was work done, perhaps, when I first moved up there. I bought my daughter a house, but I don't think it was that.
Q. 72. This says "done in 1867."
A. It must have been the house embraced in the settlement on my wife.
Q. 73. What feed did Johnson & Rozell furnish in the summer of 186; 7for your wife's horses?
A. Yes, sir.
Q. 74. What plastering-work did John Dehers do for you in 1867?
A. I can't recollect.
Q. 75. What harness did J. G. Bisney repair for you in 1867?
A. It must have been the harness belonging to my wife.
Q. 76. What sails did W. W. Sawyer furnish you in the summer of 1867?
A. Sails for my son's yacht, furnished on my credit.
Q. 77. What mason-work did J. T. Smith do for you in the summer of 1867; on the stable in 43d street?
A. Yes, sir.
Q. 78. What carpenter-work did James Lennox do for you in the summer of 1867?
A. That was carpenter-work on the yacht.
Q. 79. What upholstering-work did P. Puels do for you in the
430 summer of 1867?
A. That was on my son's yatch. I agreed to pay half the expen se of that.
Q. 80. What carpenter's work did John McComack do for you in the summer of 1867, or was that on the yacht?
A. I presume it was.
Q. 81. What repairs did Wood Brothers do; what carriage did they do

repairs on in the summer of 1867? The carriage embraced in the settlement to your wife?

A. I presume it was.

Q. 82. Has E. L. Janes been paid the amount of your indebtedness to him?

A. Yes, sir.

Q. 83. In full?

A. I think so.

Q. 84. When?

A. I have not paid it.

Q. 85. Who has paid it?

A. The assignees.

Q. 86. Burritt and Sheffield?

A. Burritt and Sheffield.

Q. 87. Has A. C. Lee been paid?

A. Not that I know of, unless you have paid her.

Q. 88. When did you give her a note, if ever?

A. I suppose at the time. She had been leaving money with me for a series of years. I had no other transaction with her than receiving her money and giving her a note.

Q. 89. Has John W. Buckmaster or William P. Buckmaster been paid anything by you or Burritt & Sheffield?

A. They have by Burritt & Sheffield.

Q. 90. How much?

A. No; John W. Buckmaster, I understood, had been paid by you.

Q. 91. By John Sedgwick?

A. Yes, sir.

Q. 92. Had M'r's Wade been paid?

A. She has been paid in part.

Q. 93. Can you tell how much?

A. I think there is standing to her credit on the books something like $200.

Q. 94. (By M'r Wallis.) Who was she paid by?

A. Sparkman, Place & King. The money was left there with us. It was in the business of Sparkman, Place & King.

Q. 96. (By M'r Bangs.) Were you a member of the firm of Taylor & Young?

A. Yes, sir.

Q. 97. Special partner?

A. Yes, sir.

Q. 98. Is that firm solvent?

A. It has paid its debts.

Q. 99. Then you have an interest in this debt of $10,464.75, haven't you?

A. I presume I have.

Q. 100. What proportion; what was your interest in that firm?

A. One-third; I think it is a third.

431 Q. 101. Has that debt to the S't Paul's Methodist Church been paid?

A. Not by me.

Q. 102. What plumbing did Stephen Philbin do for you in 1867?

A. I suppose some repairing.

Q. 103. Where?

A. I presume at the house in 43d street; it may have been work done in the stable; I have an indistinct memory of it.

Q. 104. What work did John Shuster do for you?

A. That was marble tiling in the house in 42d street.

Q. 105. What work did Baker, Smith & Co. do for you in the summer of 1867?

A. Repairing the furniture in the house in 42d street.

Q. 106. Has Dr. Lord been paid?

A. No, sir.

Q. 107. Dr. Watts been paid?

A. No, sir.

Q. 108. Have Wood Brothers been paid?

A. No, sir.

Q. 109. Have Place & Seaman been paid $68.61; that was an open account of goods?

A. I don't know that they have been paid.

Q. 110. Have any of those other debts been paid, mentioned in your inventory?

A. Robert Watts has not been paid.

Q. 111. (By M'r Wallis.) None of these debts except as you have mentioned have been paid to your knowledge, have they?

A. No, sir.

Q. 112. (By M'r Bangs.) Do you know of the claim of James T. Sparkman, executor, against Sparkman, Place & King, for about $60,000?

A. Yes, sir.

Q. 113. Was or was not the money or loans consisting of that claim a part of the proceeds of the $40,000 Government bonds?

A. Yes, sir, a part of it was.

Q. 114. Were or were not the whole of the proceeds of those Government bonds loaned or deposited by James T. Sparkman, executor, with Sparkman, Place & King?

A. When they were sold I think they passed through his hands.

Q. 115. The moneys?

A. Yes, sir; into the firm of Sparkman, Place & King.

Q. 116. And were deposited by him with the firm or corporation of Sparkman, Place & King?

A. Yes, sir.

Q. 117. They gave him their notes for it, didn't they?

A. Yes, sir.

Q. 118. Was that done with your knowledge at the time?

A. Yes, sir.

Q. 119. Do you know what disposition was made in October, 1868, of the premises in 42d street? and, if so, state.

432 A. The premises were sold to Preble.

Q. 120. John Q. Preble?

A. Yes, sir.

Q. 121. For what price?

A. I think it was about $58,000; there was furniture belonging to the estate that was sold, making up, I think, some $60,000.

Q. 122. How much of that was cash, if any?

A. There was $20,000 cash.

Q. 123. What did the executor do with that?

A. A part of that he didn't realize; he realized perhaps some $57,000 or $58,000; there was expenses that had to be paid—taxes and some things; it netted the estate between fifty-seven thousand dollars and fifty-eight thousand dollars, as near as I can recollect.

Q. 124. What did the executor do with the cash he received?

A. My son had the disposal as executor.

Q. 125. What did he do with it; do you know what he did with the proceeds?

A. No, not positively.

Q. 126. Did he ever tell you?

A. No, I don't recollect that he did.

Q. 127. From what does the indebtedness of Sparkman, Place & King to the executor, above the proceeds of the bonds, arise; that is, was it from loans or deposits, or what?

A. It grew out of the $20,000; I think moneys paid by Preble.

Q. 128. And deposited with the corporation?

A. Yes, sir.

Q. 129. By him?

A. Yes.

Q. 130. Did you know that at the time, or were you informed of it?

A. I think I knowed of it, sir.

Q. 131. Between November, 1867, and November, 1869, had or had not Sparkman, Place & King any other capital than the money borrowed by it from James K. Place & Company, for which its notes above produced had been given and the money loaned to it or deposited with it by J. T. Sparkman, executor?

A. I think the capital consisted of money loaned by James K. Place & Company.

Q. 133. Represented by the notes?

A. Represented by the notes and the estate money and capital which each party contributed.

Q. 134. (By M'r Wallis.) M'r King put in some?

A. Yes, sir, and other parties.

Q. 135. (By M'r Bangs.) When these notes matured did you make any bargain with Burritt & Sheffield for an extension or forbearance?

433 A. No, sir; there was no bargain made.

Q. 136. Did you offer to make any?

A. I wanted indulgence.

Q. They made no agreement with you?

A. They would not make any agreement.

Q. 138. They refused to?

A. Yes, sir.

Q. 139. (By M'r Wallis.) Dunned you for the money all the while?

A. Yes, sir.

JAMES D. SPARKMAN.

Subscribed and sworn to before me this 21st April, 1870.

R. E. STILWELL,
Special Examiner, &c.

LEWIS W. BURRITT, j'r, called and sworn for plaintiff.

I am one of the defendants. I was employed by J. K. & E. B. Place as book-keeper and cashier from about November 1, 1854, to about October 1, 1857, and from about December 1, 1858, to December 1, 1865, as cashier. During the latter part of the time named I had a power of attorney from them. I have been subpœnaed to produce it on this examination. I do not produce it because it is not in my possession. I think I had one on the Metropolitan Bank to draw checks on that bank and one on the Bank of Commerce for like purpose on that bank. The powers were deposited with those banks at the time they were given to me. While in the employ of J. K. & E. B. Place, I kept the check-book

and blotter cash-book—the blotter cash-book was a book of original entry. I now see and recognize some of the blotter cash-books so kept. They were under my charge, but the entries are not all in my handwriting. Some are in the handwriting of John B. Morgan, and there
434 may be some in the handwriting of other persons. The entries from the blotter cash-book were transferred to the cash-book generally by the book-keeper, whoever he might be, under my supervision. I did not ascertain their correctness. I now see and recognize the cash-book from May 1, 1864, to December 1, 1865. I cannot from that cash-book tell what cash the firm had on hand from day to day; I can tell from the blotter cash-book. The cash-book above referred to, now shown me, continued to be used by J. K. Place & Co. on and after December 1, 1865, to and including December 30, 1865. At the end of November 30, 1865, the amount of cash, as appears by the books, which J. K. & E. B. Place had on hand was $121,844.23 in currency and $15,026.8' in gold. That cash was in the form of balances due by banks in which they kept their accounts. Those banks were the Metropolitan, the Manufacturers', North River, Bank of Commerce—those are all I now remember. After November 30, 1865, I was in the employ of James K. Place & Co., as cashier, until November 20, 1867. I had powers of attorney from them similar to those I had from J. K. & E. B. Place, and have been subpœnaed to produce them on this examination, but do not produce them because they are in possession of the North River Bank, National Park Bank, Metropolitan National Bank, National Bank of Commerce, and Manufacturers' National Bank. I kept the same books for J. K. Place & Co. that I had for J. K. & E. B. Place. The amount of cash J. K. Place & Co. had on hand Dec. 1, 1865, was $121,844.23 in currency, and $15,026.89 in gold. That was in the form of balances due from banks in which they kept their accounts. I do not know of J. K. Place & Co. having received any cash from J. D. Sparkman or J. K. Place on Dec. 1, 1865, and there is no entry of any. The $121,844.23 in currency and $15,026.89 gold were paid over to J. K. Place & Co. by J. K. & E. B. Place. That payment was made by transfer, I sup-
435 pose. The blotter cash-book of J. K. Place & Co. was a new book begun Dec. 1, 1855, and the balance of cash was transferred from the cash-book of J. K. & E. B. Place to the blotter cash-book of J. K. Place & Co. I now see and recognize the check-books of J. K. & E. B. Place on the Metropolitan Bank, North River Bank, Manufacturers' Bank, and Bank of Commerce. The money in the Bank of Commerce to the credit of J. K. & E. B. Place was transferred to the credit of J. K. Place & Co., Dec. 20, 1865, by check for $15,639.05. Up to that time the checks were drawn on Bank of Commerce in name of J. K. & E. B. Place, but the payments made by those checks were entered on the books of J. K. Place & Co. The funds to the credit of J. K. & E. B. Place in the Manufacturers' Bank were transferred to the name of J. K. Place & Co., Dec. 18, 1865, by check for $19,690.89. Up to that time some checks continued to be drawn in the name of J. K. & E. B. Place, of which some were entered on the books of J. K. & E. B. Place and some on the books of J. K. Place & Co.

Q. 1. What other assets had J. K. & E. B. Place besides cash on deposit?

A. The books of account and merchandize consisting of the stock.

Q. 2. Notes and accounts due?

A. Yes, sir.

Q. 3. Where was the place of business of J. K. & E. B. Place?

A. At 132 and 134 Front street during the latter part of their existence.

Q. 4. Where was the place of business of J. K. Place & Co.?
A. At 132 and 134 Front street, in this city.
Q. 5. Where was the merchandise of J. K. & E. B. Place?
A. I don't know.
Q. 6. Was it in that store, or elsewhere?
A. I presume a portion of it was there.
Q. 7. The rest stored?
A. I presume the rest stored in different parts of New York or Brooklyn; they stored goods in Brooklyn, and there might have been *been* some stored there.
Q. 8. How do the assets of J. K. & E. B. Place appear on their books?
A. I think there was an inventory taker of the stock of goods on hand, which would appear in the invoice-book, and in order to
436 find the other assets you would look through the ledger to see what accounts were due them.
Q. 9. Did the assets appear in the form of a balance to the debit of the various accounts?
A. Yes, sir.
Q. 10. And the debts appeared in the form of items to the credit of the various accounts?
A. Yes, sir.
Q. 11. Do you know of any assets of J. K. & E. B. Place that did not appear on these books?
A. I don't think of any now.
Q. 12. Do you recognize the ledger of J. K. & E. B. Place, now here?
A. Yes, sir.
Q. 13. Which was in use up to December, 1865?
A. December 1, 1865, or November 30, 1865.
Q. 14. It is now produced, lettered on the back "Ledger C, J. K. & E. B. P.," and marked "Exhibit 31, R. E. S., examiner," &c.?
A. Yes, sir.
Q. 15. Did J. K. Place & Co. continue the use of that ledger from Dec. 1, 1865; and, if so, how long?
A. Up to the time of their failure.
Q. 16. Is there any place on the books of J. K. & E. B. Place where their debits and credits, as existing on the 30th November, 1865, are collected together?
A. Yes, sir; on the book now produced, being Journal B, J. K. & E. B. P., under the heading "Trial-balance, Nov. 30, 1865."
Q. 17. In whose handwriting is that?
A. John B. Morgan's.
Q. 18. What was his position in the firm?
A. Book-keeper.
Q. 19. What does a trial-balance usually embrace?
A. It embraces the sums standing to the debit and credit of accounts that are opened at the time the trial-balance is taken off.
Q. 20. How as to the assets of the firm, as to its embracing them or not.
A. It would embrace a portion of them.
Q. 21. What portion would be excluded, if any?
A. The stock of goods on hand.
Q. 22. Isn't there an item in the trial-balance representing the stock of goods?
A. Yes, sir; the balance to the debit of the merchandize account.
Q. 23. Does the balance to the debit of merchandise account consist exclusively of the value of merchandise or of some other item?

A. This balance consists exclusively of the value of the merchandise on hand in currency.

Q. 24. How much is it?

A. $1,474,623.44 in currency.

Q. 25. How often was it customary in the business of J. K. &
437 E. B. Place to make and enter upon their books a trial-balance?

A. At the end of each business year; that is, of a corresponding character with this.

Q. 26. What preliminary steps were taken for the purpose of making the trial-balance?

A. There was a balance struck in pencil to either the debit or credit of an account as it might be, and then the sums to the debit or credit to this account were drawn off in a form of this one, "Nov. 30, 1865, stock of goods on hand;" or an inventory was taken of the stock of goods on hand. Then the sum totals of the debits and credits were added up, and if the books were correct the sum total of the debits and the sum total of the credits would be exactly the same.

Q. 27. Now, as you find that that trial-balance contains the amount of merchandize on hand, can you say whether there is any asset of J. K. & E. B. Place not appearing on that trial-balance?

A. I don't think of any now; still there might be something in the form of stocks or assurance security, or something of that kind.

Q. 28. Something not yet ascertained, that would be?

A. It might be; yes, sir.

Q. 29. Do you know of anything of which the nature or amount had been ascertained which does not appear on that trial-balance?

A. I don't think of anything now.

Q. 30. What was the aggregate of the assets of J. K. & E. B. Place, Nov. 30, 1865?

A. The aggregate amounts to the credit of the different accounts was $4,509,094.65, and the aggregate debits was the same.

Plaintiff's counsel offers trial-balance in evidence, as follows:

(Printed as Exhibit 17, fo. 263.)

438 Q. 31. Now will you look among the debits and point out the items not actually constituting assets of the concern?

439 A. I could not go through with that and pick out those which were not considered as assets.

Q. 32. Are you able to point out any other item that was not an existing asset, any item of the debits; that is, is there any balance among the debits which does not indicate either a debt actually due to the concern or property in the possession or ownership of the concern, or investment of the money of the concern of J. K. & E. B. Place; and, if so, point it out?

A. There is an account headed Real estate, Front street, which is a debit of $120,089; also an account headed Lots on Forty-third street, to which is a debit of $685.70; an account headed Fifth avenue, corner of Forty-seventh street, to which there is a debit of $10,628.35; also an account headed Corn Exchange Insurance Company, $3,576. I don't know whether those were the property of the firm or not.

Q. 33. Why do they appear on the trial-balance?

A. It is necessary to have them there in order to make the books balance.

Q. 34. Why is it necessary to have them there in order to make the books balance?

A. Because there stands a debit to these accounts.

Q. 35. Why does there stand a debit to those accounts?

A. Money has been expended which has been charged to those accounts.

Q. 36. What money?

A. That I don't know.

Q. 37. Money of the concern or money drawn out of the funds of the concern?

A. I don't know whether it was money of the firm or how it was paid.

Q. 38. How would those items be charged with such sums as to produce debit balances against them as long as the sums charged were paid out of the funds of the concern?

A. I don't know how they could be.

Q. 39. Now, I ask you whether there was an item on the debit side of the trial-balance which does not represent a debt due to the concern; is there any item which does not belong to one of those three classes?

A. The money of the firm may have been paid out, and yet it may have been an individual investment of one of the partners.

Q. 40. Explain that—how the money of the concern could be paid out and charged on its books?

440 A. M'r Place, we will say, bought this Corn Exchange Insurance stock; certificates are made out in his name and the account is opened; I presume it is at least, opened Corn Exchange Insurance Company, J. K. Place. That represents an investment of his.

Q. 41. Why is it an investment of his?

A. I should say because he was responsible for it. It was made in his name.

Q. 42. Which determines the character of an investment, the fact that it is made with the money of the firm, or that it is taken in the name of an individual partner, in your judgment?

A. If I should make a like investment for myself and have it charged in that way, I should consider that it was my investment; that I was responsible for it.

Q. 43. Then you would consider that an entry in the books to the purport that the firm owned such property was a false entry, would you?

A. If it purported that the firm owned it, yes, sir.

Q. 44. According to your understanding and recollection and knowledge of the facts, is the entry of so much to the debit of the Corn Exchange Insurance Company, being the entry which you have just pointed out, true or false?

A. I should like to look at the entry first. (After looking at the entry witness answered:) I should consider it a true entry.

Q. 45. What is the purport of the entry; that is, what does it signify?

A. It signifies that James K. Place had invested so much money in the Corn Exchange Insurance stock.

Q. 46. Why wasn't it charged to him?

A. That didn't seem to be their custom of keeping their books.

Q. 47. What entry signifies that Ja's K. Place had invested so much money? Read the item.

A. "Corn Exchange Insurance Company;" that is written in black ink. "J. K. Place," in red ink, following it.

Q. 48. What is the item that shows that he had invested any money?

A. The heading of the account.

Q. 49. How much money does the heading of the account indicate that he had invested?

A. It does not indicate that he had invested any.

Q. 50. Then what other item in the account indicates that he had invested any?

441 A. The different charges of cash.

Q. 51. Read any one of them.

A. June 12, 1865, to cash.

Q. 52. Who is debtor to cash?

A. Corn Exchange Insurance Company, J. K. Place.

Q. 53. That means that an item headed "Corn Exchange Insurance Company, J. K. Place," owed J. K. Place & Co. cash, don't it?

A. Yes, sir.

Q. 54. Was that true or false?

A. I should say it was true.

Q. 55. Then it is true that an investment which appeared on the books of the concern under the heading "Corn Exchange Insurance Company, J. K. Place," owed the concern so much money, isn't it?

A. Yes, sir.

Q. 56. Isn't it equally true that an investment which appeared on the books of the concern under the heading "Fifth avenue, corner Forty-seventh street," also owed the concern the amount of the balance to its debit?

A. I should say so.

Q. 57. With the exceptions that you have stated as to which you expressed a doubt, is there any other item on the debit side of that trial-balance which does not represent an asset or investment of the concern, so far as you know, or property in its possession?

A. I don't see any other in looking through it.

Q. 58. On the credit side of this trial-balance do you observe the following items on page 263: James K. Place credited $227,301.62; Ephraim B. Place, $168,529.96; Ja's D. Sparkman, $262,719.48?

A. Yes, sir.

Q. 59. What do those items represent respectively?

A. The amounts to the credit of those three accounts.

Q. 60. How are those credits ascertained and arrived at; I mean as a general rule?

A. By passing to the credit of each one of the partners their proportion of the balance to the credit of profit and loss, which balance shows the amounts that they had made—the amount of profits.

Q. 61. Increase?

A. Yes, sir.

Q. 62. That the concern has made?

A. Yes, sir.

Q. 63. That is, the profits of the concern are ascertained and the proportion placed to the credit of each partner?

A. Yes, sir; this shows the balance.

442 Q. 64. Don't the amounts to the credit of the partners represent the surplus of the concern above its debts?

A. I should think it did.

Q. 65. And don't they also represent—those items to the credit of the several partners—indicate the interests of the partners severally in the surplus of the concern?

A. Yes, sir.

Q. 66. If you proposed to state the condition of the concern on November 30, 1865, so as to show only its assets and the amounts which it owed to persons not members of the firm, what items would you strike from that trial-balance, from the credit of said trial-balance; you understand this, that if I am a partner in a concern and there appears a sum of $18,000 to my credit, I can't sue the firm for that; in order to get at the debts you would strike that out, wouldn't you?

A. Yes, sir.

Q. 67. Are there any items in the credit side which go to diminish the amount of its actual indebtedness which it did not actually owe to outsiders?

A. You refer to J. K. & E. B. Place?

Q. 68. Yes; that trial-balance before you.

A. With that in view I should say you would strike out the amounts to the credit of J. K. Place, Ephraim B. Place, and Ja's D. Sparkman.

Q. 69. Then there would appear a large surplus, wouldn't there, of assets equal to the amount of those three credit items?

A. Yes, sir.

Q. 70. How would that surplus be affected, and how would the amounts to the credit of the several partners be affected, if the concern did not own the investments which appear under the heading of Front street property, Forty-third street lots, Fifth avenue property, and Corn Exchange Insurance stock?

A. So far as the Front street property is concerned it would not be affected because there is an amount about corresponding with the amount to the debit of that account. For instance, there is an amount to the debit of Front street property, $120,089; and there is an amount to the credit of E. B. Place, bond and mortgage, $78,600; to the credit of J. P. Giraud, j'r, executor, $41,400.

Q. 71. So that the credits balance the debits?

A. About; so far as the others are concerned the amount to
443 the credit of those partners would be reduced, if those were stricken out of the assets.

Q. 72. If the Front street property were stricken out from the assets without striking out the items to the credit of E. B. Place, bond and mortgage, $78.600, and the amount to the credit of J. P. Giraud, j'r, so that the concern still appear to owe those two amounts, then wouldn't the surplus of the concern and the balance to the credit of the partners be affected to the extent of $120,000?

A. Yes, sir.

Q. 73. Will you please mark your initials on the first page of that journal?

(Journal marked in the first blank page preceding page 6, "Sedgwick v. Place, Nov. 12, 1869, Exhibit No. 2, L. W. B., j'r," and the trial-balance is marked, "Sedgwick v. Place, Nov. 12, 1869, Exhibit No. 3, L. W. B., jr.")

Q. 74. Do you know of any property, merchandise, money, or anything else which James K. Place or James D. Sparkman contributed to the capital of J. K. Place & Co., except their respective interests in the property of J. K. & E. B. Place; and, if so, state what such contribution was and when it was made?

A. I don't know of any.

Q. 75. How would you ascertain from the books of Ja's K. Place & Co. the amount of Ja's K. Place's capital, and the amount of Ja's D. Sparkman's capital—how would anybody ascertain?

A. Deduct from the amount to his credit the amount of the investments which the books show to have been made in his name.

Q. 76. How would you ascertain the amount to his credit—on what part of the books?

A. On the ledger.

Q. 77. On his personal account?

A. Yes, sir.

Q. 78. State what was the amount to his credit on the 1st of Dec., 1865.

A. $227,301.62.

Q. 79. Look at the check now shown you, being as follows: "New York, Sept. 18, 1865. Metropolitan Bank, pay to the order of John A. Livingston forty-five hundred ($4,500.00) dollars. J. K. & E. B.
444 Place." Endorsed: "Pay F. B. Wallace, or order. John A. Livingston, F. B. Wallace, F. B. Wallace and Co. Exhibit 1, Nov. 12, 1869, R. E. S., examiner," and say if you recognize any signatures or endorsements?

A. I recognize the signature to the check.

Q. 80. State whose it is.

A. I should say it was James K. Place'.

Q. 81. Do you recognize any of the endorsements?

A. No, sir.

Q. 82. In whose handwriting is the filling up?

A. In my own.

Q. 83. What was that check given for?

A. I don't know.

Q. 84. Is there any way you can tell? Please refer to the check-book from which the check was taken and see if the entry is in your handwriting.

A. Yes, sir.

Q. 85. What does it state?

A. It says J. K. Place to John A. Livingston, Sept. 19.

Q. 86. In what book would the payment next appear after being entered in the check-book?

A. In the blotter cash-book.

Q. 87. Will you please look in the blotter cash-book and see if it appears; and, if so, where?

A. It appears in the blotter cash-book under date of Tuesday, 19 Sept., 1865, in my handwriting, as follows: "James K. Place paid J. A. Livingston $4,500."

Q. 88. Where would it next appear?

A. In the cash-book; I find it on page 259 of the cash-book, J. K. & E. B. Place, under date of Sept. 19, in the following words: "J. K. Place paid J. A. Livingston $4,500," and the pencil reference in the words see "21 Sept." On the next page, 260, in the debit side of the cash-book, it appears as follows: "J. K. Place, charged his account, by error 19, $4,500," pencil, see "19th Sept."

Q. 89. The word "error" is in your handwriting, isn't it?

A. No, sir; it then appears in the credit side of the cash-book, page 260, under date of Sept., as follows: "5th avenue, corner 47th street, paid J. A. Livingston $4,500."

Q. 90. Where does it next appear?

A. On the ledger, folio 86.

Q. 91. Under what heading?

A. Fifth avenue, corner 47th street, J. K. Place.

Q. 92. The words J. K. Place being in red ink?

A. Yes, sir.

Q. 93. In whose handwriting is the heading?

445 A. I should say it was in the handwriting of John B. Morgan.

Q. 94. Will you please mark that?

(The account in the ledger is marked by the witness, "Sedgwick v. Place, Nov. 12, 1869. Exhibit 31, L. W. B., j'r.")

The account extends from page 86 to page 31, and from page 31 to 34, and is offered in evidence as follows:

EXHIBIT 31.—L. W. B., J'R.

Sedgwick vs. Place, November 12, 1869.

(From page 86.) "Fifth avenue, cor. 47th st. J. K. Place."

				D'R.	
1865.					
July 13	To cash	212	$500 00	
Sept. 19	"	260	4,500 00	
Oct. 27	"	285	163 35	
Nov. 2	"	290	275 00	
18	"	300	3,000 00	
20	"	301	1,500 00	
30	Interest	253	90 00	
Dec. 13	Cash	318	1,606 09	
82	"	329	24 00	
"	"	"	116 00	
1866.				
Jan'y 5	"	3	500 00	
31	"	23	1,500 00	
Feb'y 3	"	27	400 00	
13	"	35	1,730 03	
23	"	44	50 00	
26	"	47	1,000 00	
March 9	"	59	2,000 00	
22	"	70	3,500 00	
26	"	74	1,500 00	
April 3	"	79	2,000 00	
16	"	86	3,000 00	
17	"	88	75 00	
20	"	91	1,000 00	
30	"	97	275 00	
May 14	"	108	50 00	
June 4	"	127	57 44	
446				
1866.				
June 11	To cash	133	50 25	
30	"	148	3,000 00	
July 16	"	157	1,000 00	
24	"	162	2,000 00	
27	"	164	500 00	
28	"	165	1,000 00	
Aug. 2	"	168	2,500 00	
24	"	185	239 10	
25	"	"	2,000 00	
28	"	187	1,000 00	
Sept. 10	"	197	2,000 00	
15	"	204	600 00	
Oct. 27	"	245	275 00	
			$47,076 26	

1866.	C'R.	Fo.		
May 1	By J. K. Place	32		$3,600 00
Oct. 3	" balance acc't	31		43,476 26
				$47,076 26

(From page 31.) "Fifth avenue, corner 47th street. J. K. Place."

1866.	D'R.	Fo.		
Oct. 30	To balance from	86	$43,476 26	
31	" cash	248	342 90	
Nov. 3	" "	252	1,000 00	
6	" "	255	3,000 00	
15	" "	263	2,000 00	
19	" "	267	250 00	
24	" "	274	40 00	
27	" "	276	50 90	
Dec'r 1	" "	279	300 00	
5	" "	283	3,000 00	
10	" "	287	39 00	
13	" "	290	2,051 00	
15	" "	293	200 00	
17	" "	294	250 00	
18	" "	295	1,700 00	
28	" "	303	2,000 00	
29	" "	304	350 00	
31	" interest	89	1,577 84	
			$61,627 00	

447

1866.				
Dec. 31	By balance			$61,627 00
				$61,627 00
1866.				
Dec. 31	To balance		61,627 00	
1867.				
Jan. 5	To cash	3	31 60	
"	"	"	1,000 00	
10	"	6	225 56	
12	"	8	250 00	
19	"	14	1,230 00	
25	"	20	46 25	
26	"	22	700 00	
30	"	25	2,000 00	
Feb. 2	"	27	532 14	
12	"	37	225 00	
16	"	41	430 00	
23	"	46	600 00	
26	"	49	84 00	
Mar. 7	"	57	2,000 00	
8	"	58	1,500 00	
9	"	59	200 00	
15	"	63	3,000 00	
18	"	65	1,007 12	
20	"	66	1,000 00	
23	"	69	600 00	
30	"	73	531 83	
April 11	"	79	198 12	
12	"	80	166 00	
22	"	86	100 36	
24	"	87	1,500 00	
27	"	89	1,291 60	
30	"	91	470 50	
			$82,547 08	

1867.	C'R.	Fo.		
April 30	By amount to	34		$82,547 08

(From page 34.) "Fifth avenue, corner 47th street."

1867.		D'R.				
April	30	To amount from folio	31	$2,547 08		
May	1	" cash	93	1,000 00		
	4	"	95	103 76		
	8	"	97	339 58		
	20	"	107	517 00		
448						
	23	To cash	110	$41 00		
	27	"	112	435 00		
	29	"	113	969 39		
June	3	"	117	507 50		
	6	"	119	3 19		
	20	"	128	31 00		
	22	"	129	1,000 00		
July	1	"	135	56 00		
	5	"	137	500 00		
	27	"	152	360 96		
	30	"	153	13 00		
Aug.	2	"	156	288 86		
	21	"	167	1,268 39		
Sept.	23	"	189	25 00		
	28	"	193	18 00		
Oct.	3	"	197	108 38		
	30	"	218	275 00		
Nov.	1	"	220	1,050 00		
	2	"	221	140 80		
	19	"	233	26 00		
		" Marsh, Coe & Wallis	175	49 00		
		" E. L. Roberts	183	4,500 00		
	20	" interest	"	5,099 96		
				$101,273 85		
1867.		C'R.				
May	15	By cash	103			$55 00
Aug.	2	"	156			85 85
		" E. L. Roberts	183			500 00
Nov.	20	" Ja's K. Place	182			100,633 00
						$101,273 85

Q. 95. The first item in that account, page 86, seems to read "1865, July 13: To cash, 212, $500." Can you tell me what that was?

A. The answer is, that is an item on page 212, cash-book, J. K. & E. B. Place, under date of July 13, 1865, as follows: "5th avenue, corner 47th street, (red ink,) J. K. P., paid J. A. Livingston, $500." That entry is in the handwriting of John B. Morgan.

Q. 96. Do you know of any payment or expenditure out of the funds of J. K. & E. B. Place in reference to that property prior to the expenditure appearing by the entry last read.

A. I do not.

449 Q. 97. Please to look at the check now shown to you in the following words: "New York, November 2, 1865. Manufacturers' National Bank, in the city of New York, pay to G. M. Ogden, treasurer, or order, two hundred and seventy-five ($275) dollars. J. K. & E. B. Place, by L. W. Burritt, j'r, attorney." Endorsed: "Deposit in the Bank of New York to credit of Columbia College, Governeur M. Ogden, treasurer," and state in whose handwriting is the filling up and signature of that check.

A. My own.

Q. 98. What was it given for?

A. I don't know positively, but I think for a lease.

Q. 99. Can you ascertain by reference to the books?

A. I think it was ground-rent of premises 5th avenue, corner of 47th street.

Q. 100. Have you no doubt about that?

A. That is what the books indicate.

Q. 101. Have you no knowledge, independently of the books, or recollection? Had the firm of J. K. & E. B. Place any dealings with G. M. Ogden, treasurer, except in reference to the payment of rent on the premises corner of 5th avenue and 47th street?

A. None that I know of.

Q. 102. Did you know a man by the name of Walter Jones?

A. No, sir.

Q. 103. Look at the check now produced and shown to you, as follows: "New York, Nov. 20, 1865. North River Bank pay to the order of Walter Jones fifteen hundred dollars, ($1,500.) J. K. & E. B. Place." Endorsed: "Walter Jones." Say in whose handwriting is the filling up.

A. The handwriting of the filling up is mine; the signature is that of James K. Place.

Q. 104. What was that given for?

A. I don't know, except what the books indicate.

Q 105. Will you see whereabouts in the books that check next appears? State the order in which it appears in the books.

A. It would first appear in the North River Bank check-book.

Q. 106. See whether it does so.

A. Yes, sir; the entry in the check-book is in my handwriting. It next appears in the blotter cash-book, in my handwriting, under date of Monday, 20th of November, as follows: "5th avenue, corner
450 47th street, paid Walter Jones, account of mason-work, $1,500," and then it next appears in the cash-book of J. K. & E. B. Place, on the credit side, page 301, in the handwriting of John B. Morgan, as follows: "5th avenue, corner 47th street, paid Walter Jones, account mason work, $1,500."

Q. 107. Look at the check now shown you, as follows: "New York, Nov. 18, 1865. Manufacturers' Natjonal Bank, in the city of New York, pay to Anderson & Morgan, or order, three thousand dollars, ($3,000.) J. K. & E. B. Place, by L. W. Burritt, j'r, att'y." Endorsed: "Anderson and Morgan, Morgan & Anderson," and state in whose handwriting is the filling up and signature of that check.

A. In mine.

Q. 108. What was it given for?

A. I could not tell without referring to the books. (Witness does so.) The blotter cash-book indicates that it was given to Anderson & Morgan on account of stone-work, 5th avenue, corner 47th street.

Q. 109. Is that your recollection of it?

A. I have no recollection as to what it was given for, more than as the books indicate. The first entry of it is in my handwriting in the check-book, in the words, "J. K. Place paid Anderson & Morgan, Nov. 20, $3,000." The next entry is in the blotter cash-book, under date of Saturday, 18th Nov. The original entry was in these words: "J. K. Place to Morgan & Anderson, account stone work on house 5th avenue, corner 47th street, $3,000." This was in my handwriting. It has been altered in my handwriting so as to read as follows: "Fifth avenue, corner 47th

street, paid Morgan & Anderson, on account stone-work, $3,000." It next appears in the cash-book of J. K. & E. B. Place, on page 300, in the handwriting of John B. Morgan: "5th avenue, corner 47th street, paid Morgan & Anderson, on account of brown-stone work, $3,000."

Q. 110. Look at the check now shown you, as follows: "New
451 York, Dec. 29, 1865. Manufacturers' National Bank, in the city of New York, pay to Man & Parsons, or order, one hundred and sixteen dollars, ($116.) James K. Place & Co., per L. W. Burritt, j'r, att'y." Endorsed: "Man & Parsons, A. P. Man, W. Man, att'y," and state in whose handwriting is the filling up and signature of that check.

A. In mine.

Q. 111. And what was it given for?

A. By referring to the books I ascertain the check-book reads: "5th avenue, corner W. 47th street, paid Man & Parsons, Dec. 29, $116."

Q. 112. For what?

A. It does not state.

Q. 113. Do you know who Man & Parsons were?

A. I do not. On the blotter cash-book, under date 28th Dec., 1865, "5th avenue, corner W. 47th street, paid Man & Parsons charges of examining title, &c., $116."

Q. 114. Is that entry in your handwriting?

A. Yes, sir.

Q. 115. Look at the checks now shown you, as follows: "New York, April 30, 1866. National Bank of Commerce, in New York, pay to G. M. Ogden, treasurer, or order, two hundred and seventy-five dollars, ($275.) James K. Place & Co., by L. W. Burritt, j'r, attorney." Also, "New York, 30 October, 1867. National Park Bank pay to the order of G. M. Ogden, treasurer, two hundred and seventy-five dollars. James K. Place & Co., by L. W. Burritt, j'r, att'y," all endorsed as above, and state in whose handwriting are the filling up and signatures to those checks.

A. In mine.

Q. 116. What were they given for?

A. I should say they were given for the ground-rent of the property Fifth avenue, corner 47th street.

Q. 117. Look at the checks now produced and shown you, as follows: "New York, Dec. 18, 1865. The Metropolitan National Bank pay to the order of L. W. Burritt, j'r, sixteen hundred and six and $\frac{09}{100}$ dollars, ($1,606.09.) J. K. & E. B. Place." Indorsed: "Pay to the order of Walter Jones. L. W. Burritt, j'r.," and state in whose handwriting is the filling up, and signature, and endorsement of that check.

A. The filling up and signature is that of James K. Place.

Q. 118. Look at the checks now produced and shown to you, as
452 follows: "New York, February 13, 1866. Manufacturers' National Bank pay to the order of Walter Jones seventeen hundred and thirty and $\frac{03}{100}$ dollars, ($1,730.03.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, April 19, 1866. North River Bank pay to the order of Walter Jones one thousand dollars, ($1,000.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, July 16, 1866, The Metropolitan National Bank pay to the order of Walter Jones one thousand dollars, ($1,000.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, July 28, 1866. The Metropolitan National Bank pay to the order of Walter Jones one thousand dollars. James K. Place & Co., by L. W. Burritt, j'r, attorney." Also, "New York, March 18, 1867, The Metropolitan National Bank pay to the order of Walter Jones nine hundred and seventy-two $\frac{12}{100}$ dollars, ($972.12.)

James K. Place & Co., by L. W. Burritt, j'r, att'y," and state in whose handwriting are the filling up and signature of those checks.

A. In mine.

Q. 119. And what were they given for?

A. The books indicate it was paid for mason-work and grading, &c., of the property, Fifth avenue, corner West 47th street.

Q. 120. Look at the check now produced and shown to you, as follows: "New York, March 26, 1866. The Manufacturers' National Bank pay to the order of M'r Walter Jones fifteen hundred dollars, ($1,500.) James K. Place & Co.," and state in whose handwriting is the filling up and signature.

A. I should say the filling up is in the handwriting of M'r John B. Morgan, and the signature is that of James K. Place.

Q. 121. Look at the check now produced and shown to you, as follows: "New York, March 7, 1867. The Manufacturers' National Bank pay to the order of Walter Jones two thousand dollars, ($2,000.) James K. Place & Co., by J. B. Morgan, att'y," and state in whose handwriting is the filling up and signature of that check.

A. John B. Morgan's.

Q. 122. Do you know of any dealings of the firm of J. K. & E. B.
453 Place or J. K. Place & Co. with M'r Walter Jones? And, if so, state what they were.

A. I don't know of any of the firms.

Q. 123. Other than these payments, did they buy or sell any merchandise?

A. No, sir; not that I know of.

Q. 124. What was he?

A. The books indicate that those amounts were paid him for work done at the property, 5th avenue, corner of West 47th street.

Q. 125. Look at the checks now produced, as follows: "New York, June 30, 1866. The Manufacturers' National Bank pay to the order of Smith and True three thousand dollars, ($3,000.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, July 24, 1866. The Manufacturers' National Bank pay to the order of Smith & True two thousand dollars, ($2,000.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, 2 Aug., 1866. The National Park Bank pay to the order of Smith & True two thousand dollars, ($2,000.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, Jan. 5, 1867. The National Park Bank pay to the order of Smith & True two thousand dollars. James K. Place & Co., by L. W. Burritt, j'r, attorney. ($2,000.)" Also, "New York, June 30, 1867. The Manufacturers' National Bank pay to the order of Smith & True two thousand dollars. James K. Place & Co., by L. W. Burritt, j'r, att'y. ($2,000.)" Also, "New York, April 24, 1867. The National Park Bank pay to the order of Smith & True fifteen hundred dollars. James K. Place & Co., by L. W. Burritt, j'r, attorney. ($1,500.)" Also, New York, July 5, 1867. The Metropolitan National Bank pay to the order of Smith & True five hundred dollars. James K. Place & Co., by L. W. Burritt, j'r, att'y," and state in whose handwriting are the filling up and signature of these checks.

A. In my handwriting.

Q. 126. Who were Smith & True?

A. I think they were carpenters.

Q. 127. What work did they do, or what did they give for those checks?

A. They did work for the firm on the premises 132 Front street; no, because that was James K. Place's.

Q. 128. They did work on 132 Front street?

454 A. They did work at the store, 132 Front street; yes, sir.

Q. 129. And what other work did they do; carpenter work; that is, on what building?

A. Building Fifth avenue, corner West Forty-seventh street.

Q. 130. What were those checks given for?

A. The books indicate that they were given them for work done.

Q. 131. Do you know of any other transaction of Smith and True?

A. They may have done carpenter work at the stables in Forty-third street.

Q. 132. Look at the checks now produced and shown to you, as follows: "New York, Nov. 6, 1866. The Manufacturers' National Bank pay to the order of Mess'rs Smith & True three thousand dollars. James K. Place & Co., by J. B. Morgan, attorney. ($3,000.)" Also, "New York, March 15, 1867. The Manufacturers' National Bank pay to the order of Mess'rs Smith & True two thousand dollars. James K. Place & Co., by J. B. Morgan, attorney. ($2,000.)" Also, "New York, June 22, 1867. The Manufacturers' National Bank pay to the order of Mess'rs Smith & True one thousand dollars. James K. Place & Co., by J. B. Morgan, attorney. ($1,000.)" Also, "New York, July 27, 1867. The Manufacturers' National Bank pay to the order of Mess'rs Smith & True four hundred and eighty-four and $\frac{66}{100}$ dollars. James K. Place & Co., by J. B. Morgan, att'y. (484\frac{66}{100}$.)" Also, *also*, "New York, August 2, 1867. The Manufacturers' National Bank pay to the order of Mess'rs Smith & True three hundred and seventy-seven $\frac{01}{100}$ dollars. James K. Place & Co., by J. B. Morgan, attorney, (377\frac{01}{100}$.)" and state in whose handwriting is the filling up and signature of those checks.

A. I should say it was John B. Morgan's.

Q. 133. Who was he employed by?

A. James K. Place & Co.

Q. 134. And by J. K. & E. B. Place?

A. Yes, sir.

Q. 135. Do you know C. Otto Ficht?

A. No, sir.

Q. 136. Did you know any man of that name engaged in any business; and, if so, what?

A. No, sir.

Q. 137. Do you know of the firm buying any merchandize from him?

A. No, sir.

Q. 138. Look at the checks now produced and shown, as follows:

455 "New York, Jan. 12, 1867. North River Bank pay to the order of C. Otto Ficht two hundred and fifty dollars. James K. Place & Co., by L. W. Burritt, j'r, attorney. ($250.)" Also, "New York, April 27, 1867. The Metropolitan National Bank pay to the order of C. Otto Ficht eight hundred dollars. James K. Place & Co., by L. W. Burritt, j'r, attorney, ($800,)" and state in whose handwriting are the filling up and signature of those checks.

A. Mine.

Q. 139. What were they given for?

The books indicate that they were given to C. Otto Ficht for decorating the premises Fifth avenue, corner of Forty-seventh street.

Q. Look at the checks now produced and shown to you as follows: "New York, Nov. 19, 1866. The Manufacturers' National Bank pay to the order of M'r C. Otto Ficht two hundred and fifty dollars. James K.

Place & Co., by J. B. Morgan, attorney. ($250.)" Also, "New York, December 1, 1866. The Manufacturers's National Bank pay to the order of C. Otto Ficht three hundred dollars. James K. Place & Co., by J. B. Morgan, attorney. ($300.)" Also, "New York, Jan. 2d, 1867. The Manufacturers' National Bank pay to the order of M'r C. O. Ficht seven hundred dollars. James K. Place & Co., by J. B. Morgan, att'y. ($700.)" Also, "New York, Feb. 23, 1867. The Manufacturer's National Bank pay to the order of M'r C. O. Ficht six hundred dollars. James K. Place & Co., by J. B. Morgan, att'y. ($600.)" Also, "New York, May 20, 1867. The Manufacturers' National Bank pay to the order of M'r C. O. Ficht five hundred and seventeen dollars. James K. Place & Co., by J. B. Morgan, att'y, ($517,)" and state in whose handwriting are the filling up and signature of those checks.

A. I should say John B. Morgan's.

Q. 141. What were they given for, as far as you know?

A. I don't know.

Q. 142. See if you find any account of C. O. Ficht on the books?

A. No, sir.

Q. 143. Look at the check now produced and shown you, as follows: "New York, Nov. 1, 1867. The National Park Bank pay to the order of Joseph S. Barker two thousand and thirty-five $\frac{93}{100}$ dollars. James
456 K. Place & Co., by L. W. Burritt, j'r, att'y, ($2,035.93,)" and state in whose handwriting is the filling up and signature to that check.

A. Mine.

Q. 144. What was it given for?

A. I find an entry of that check in the check-book in my handwriting, "J. S. Barker, interest on mortgage, house 47th st., cor. 5th avenue, to date, $1,050. Int. to date on account, $985.93. Nov. 1, $2,035.93."

Q. 145. Now see when that payment is carried through the books.

A. It appears next on the blotter cash-book, under date of Friday, 1st of November, 1867: "5th avenue, cor. W. 47th st. Paid six months' interest to date, on mortgage, J. S. Barker, $1,050. J. S. Barker, int. to date on account, $985.93;" also on cash-book B of J. K. P. & Co., folio 220, under date of Nov. 7, 1867: "5th av., cor. W. 47th street, paid interest on mortgage to date, to J. S. Barker, $1,050. Joseph S. Barker, int. on account to date, $985.93." A part of the payment appears on the ledger, folio 34, under the heading, 5th ave., cor. 47th st., under date Nov. 1, 1867, "To cash, $1,050," and the rest of the payment is charged to Joseph S. Barker.

Q. 146. Why was that payment of $1,050 charged to that account on the ledger?

A. I suppose by direction of M'r J. K. Place.

Q. 147. Did you know of the giving of any mortgage to Joseph S. Barker on that property?

A. I had heard that one had been given. I believe there is an entry on the books.

Q. 148. Is there any entry to the credit of the Fifth avenue property of the giving of that mortgage?

A. No, sir.

Q. 149. Produce what entries there are on the books relating to the giving of that mortgage.

A. The first entry is on the journal A of J. K. Place & Co., page 144, at the foot of the page, in the words following: "Joseph S. Barker to M'r's Susan A. Place, for mortgage on above property, dated May 1,

1867, $30,000." I should say that the words "M'r's Susan A. Place" had been written on an erasure; so it appears on the journal.

Q. 180. Can you tell what had been there before?

A. I cannot tell from inspection, and I don't know what the
457 original entry was. That entry is posted into the loan-book, to the debit of Joseph S. Barker, at page 104, loan-book C, now produced, and it is posted to the credit of M'r's Susan A. Place, on loan-book C, now produced, at page 4.

(The account with Joseph S. Barker marked by the witness "Sedgwick v. Place, Nov. 12, 1869, Exhibit 32, L. W. B., j'r." The account with M'r's Susan A. Place marked "Sedgwick v. Place, Nov. 12, 1869, Exhibit 33, L. W. B., j'r." The entry on the journal marked "Sedgwick v. Place, Nov. 12, '67, Exhibit 34, L. W. B., j'r.")

EXHIBIT 32.—L. W. B., J'R.

Sedgwick vs. Place, November 12, 1869.

Joseph S. Barker, New York or Sing Sing.

	D'R.		
1865.			
May 2	To cash	157	$700 00
Nov. 4	"	291	800 00
May 12	"	107	492 93
1	"	117	26,117 50
July 1	" balance		14,000 00
			$42,110 43
	C'R.		
1865.			
May 1	By cash	157	10,000 00
	" interest	201*a*	700 00
1866.			
Feb'y 15	By cash	37*b*	800 00
April 12	" "	85	3,500 00
May 1	" "	98	26,000 00
	" interest	25	992 93
June 29	" cash	147	117 50
			$42,110 43
	D'R.		
1866.			
Aug. 20	To cash	181*a*	10,000 00
Sep. 26	"	213*a*	500 00
1867.			
Jan'y 29	"	24	2,800 00
Feb'y 13	"	38	70 44
458			
April 9	To cash	78	$500 00
May 1	"	93	2,451 75
	Balance		61,500 00
			$68,822 19
	C'R.		
1866.			
July 1	By balance		$14,000 00
Aug. 1	By cash	167	46,000 00
Oct. 3	"	219	1,500 00
Dec. 26	"	302	1,138 00

EXHIBIT 32, &c.—Continued.

1867.			
Feb'y 13	"	38	
May 1	" interest	128	2,451 75
	" cash	93	3,300 00
	" "	"	432 44
			$68,822 19
	C'R.		
1867.			
May 1	By balance		$61,500 00
Nov. 1	By interest	171	985 93
			$62,485 93
	D'R.		
1867.			
July 8	To cash	139	$3,500 00
17	"	145	500 00
May 1	M'r's S. A. Place	144	30,000 00
Sept. 13	To cash	183	3,000 00
Nov. 1	"	220	985 93
	Balance		24,500 00
			$62,485 93
	C'R.		
1867.			
Nov. 1	By balance		$24,500 00
20	" interest	178	89 28
			$24,589 28
	C'R.		
1867.			
Nov. 20	By balance		$24,589 28

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EXHIBIT 33.—L. W. B., JR.

Sedgwick vs. Place, November 12, 1869.

M'r's Susan A. Place.

	C'R.		
1865.			
Dec. 15	By U. S. 7 3-10 bonds	7	$105 00
1866.			
June 7	" cash	130	875 00
" 16	" "	137	1,277 50
" 21	" U. S. 7 3-10 bonds	57	770 00
Dec. 3	" cash	281	875 00
15	" "	293	1,277 50
31	" interest	80	132 50
			$5,312 50
	C'R.		
1866.			
Dec. 31	By balance		$5,312 50
1867.			
May 8	" cash	97	1,117 16
June 12	" "	123	875 00
15	" "	125	1,277 50

EXHIBIT 33, &c.—Continued.

May 1	" Joseph S. Barker	144	30,000 00
Nov. 20	" interest	178	456 84
			$39,039 00
	D'R.		
1867.			
	To Sparkman, P. & K	200*a*	$19,500 00
	" real estate W. 43d street	"	10,500 00
	" by balance		9,039 00
			$39,039 00
	C'R.		
1867.			
Nov. 20	By balance		$9,039 00

Q. 151. Look at the checks now produced and shown to you, as follows: "New York, 11 April, 1867. The Metropolitan National Bank pay to the order of Henry Sharp one hundred and ninety-eight and $\frac{12}{100}$ dollars, ($198.12.) James K. Place & Co., by L. W. Burritt, j'r, att'y."
460 Also, "New York, March 19, 1867. The Metropolitan National Bank pay to the order of Henry Sharp two hundred dollars, ($200.) James K. Place & Co., by L. W. Burritt, j'r, att'y," and say in whose handwriting is the filling up and signature to those checks, and what were they given for.

A. The handwriting and signature is mine. From entries in the check-book, made in my handwriting at the time, it appears to be given to Henry Sharp for enriched glass, premises 5th avenue, corner West 47th street; that is the check for $200; check for $198.12 is given for the balance of the same bill.

Q. 152. Look at the checks now produced and shown to you, as follows: "New York, 3 Nov., 1866. The Metropolitan National Bank pay to the order of C. Doyle one thousand dollars, ($1,000.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, May 27, 1867. The National Bank of Commerce, in New York, pay to the order of C. Doyle four hundred and thirty-five dollars, ($435.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, August, 25, 1866. The National Park Bank pay to the order of John B. Morgan two thousand dollars, ($2,000.) James K. Place & Co." Endorsed: "Pay Cornelius Doyle, or order. John B. Morgan," and say in whose handwriting is the signature and filling up of those several checks, and what they were given for severally.

A. Those on the Metropolitan National Bank and the National Bank of Commerce, the signature and filling up, one for $1,000 and one for $435, are in my handwriting. That on the National Park Bank, for $2,000, the filling up is in the handwriting of John B. Morgan, and is signed by Mr. James K. Place; the endorsement, as far as read, is in the handwriting of John B. Morgan. That on the National Park Bank, as appears by the check-book, in the handwriting of John B. Morgan, was given to Cornelius Doyle for plastering premises 5th avenue, corner 47th street. That on the Metropolitan National Bank, as appears by the check-book, is in my handwriting at the time, and was given to
461 C. Boyle for plastering premises 5th avenue, corner West 47th street.

Q. 153. Look at the checks now produced and shown you, as

follows; "New York, 8th March, 1867. The National Park Bank pay to the order of John Shuster fifteen hundred dollars, ($1,500.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, April, 22, 1867. The Manufacturers' National Bank pay to the order of Mr. John Shuster one hundred and 36-100 dollars, ($100.36.) James K. Place & Co., by J. B. Morgan, att'y," and say in whose handwriting is the filling up and signature of those checks, and what they were given for respectively.

A. The filling up and signature of that on the National Park Bank is in my handwriting; the filling up and signature of that on the Manufacturers' National Bank is in the handwriting of John B. Morgan; that on the National Park Bank, as appears by the check-book in my handwriting at the time, was given to John Shuster for marble-work done on premises fifth avenue, corner West Forty-seventh street. That on the Manufacturers' National Bank, as appears by the check-book in the handwriting of John B. Morgan, was given to John Shuster for balance of bill for work at Fifth avenue, corner West Forty-seventh street.

Q. 154. Please to look at the checks now produced and shown to you as follows: "New York, Feb. 3, 1866. North River Bank pay to the order of M'r James Howell four hundred dollars. James K. Place & Co. ($400.") Also, "New York, March 15, 1867. The Manufacturers' National Bank pay to the order of M'r J. Howell, j'r, one thousand dollars, ($1,000.) James K. Place & Co., by J. B. Morgan, attorney." Also, "New York, Nov. 2, 1867. The Metropolitan National Bank pay to the order of J. Howell, j'r, one hundred and forty and 80-100 dollars, ($140.80.) James K. Place & Co., by L. W. Burritt, j'r, attorney." Also, "New York, May 29, 1867. The National Park Bank pay to the order of James Howell, j'r, twelve hundred and one and 46 hundred' dollars, ($1,201.46.) James K. Place & Co., by L. W. Burritt, j'r, attor-
462 ney," and say in whose handwriting the same are, and for what the same are respectively given.

A. That on the North River Bank, the filling up is in the handwriting of John B. Morgan, the signature that of James K. Place; that on the Manufacturers' National Bank, the filling up and signature is in the handwriting of John B. Morgan; of the remaining checks the filling up and signature is in my handwriting. That on the North River Bank, as appears by the check-book in the handwriting of J. B. Morgan, given to James Howell for iron-work, Fifth avenue, corner West Forty-seventh street; that on the Manufacturers' National Bank, as appears by the check-book in the handwriting of John B. Morgan, was given to J. Howell, j'r, on account of iron-work premises Fifth avenue, corner West Forty-seventh street; that on the National Park Bank, as appears by the check-book in my handwriting at the time, was given to J. Howell, j'r, partly for iron-work on premises corner Forty-seventh street and Fifth avenue, $969.50, and the remainder, $232.07, for iron-work on premises in West Forty-third street; that on the Metropolitan Bank was entered in the check-book in my handwriting at the time as follows: "Fifth avenue, corner Forty-seventh street, paid J. Howell, j'r, Nov. 2, $140.80."

Q. 155. Look at the checks now produced and shown to you, as follows: "New York, Sept. 15, 1866. The Manufacturers' National Bank pay to the order of Samuel Oliver six hundred dollars. James K. Place & Co., by L. W. Burritt, j'r, att'y. ($600.") Also, "New York, Feb. 2, 1867. The Manufacturers' National Bank pay to the order of M'r Samuel Oliver five hundred dollars. James K. Place & Co., by J. B. Morgan, att'y. (500.") Also, "New York, Feb. 16, 1867. North River Bank pay to the order of Samuel Oliver four hundred dollars. James K. Place & Co., by L. W. Burritt, j'r, att'y. ($400.") Also, "New York, March 23, 1867

The Manufacturers' National Bank pay to the order of M'r Samuel Oliver six hundred dollars. James K. Place & Co., by J. B. Morgan,
463 attorney, ($600.)" Also, "New York, 30 March, 1867. North River Bank pay to the order of Samuel Oliver three hundred dollars, ($300.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, May 4, 1867. The Manufacturers' National Bank pay to the order of Samuel Oliver one hundred and three and 76-100 dollars, ($103.76-100.) James K. Place & Co., by L. W. Burritt, j'r, att'y," and state in whose handwriting is the filling up and signature of said checks, and what the same were respectively given for.

A. That of Sept. 15, 1866, the filling up and signature is in my handwriting; that of Feb'y 2, 1867, the filling up and signature is in the handwriting of John B. Morgan; that of Feb'y 16, 1867, the filling up and signature is in my handwriting; that of March 23, 1867, the filling up and signature is in the handwriting of John B. Morgan: that of the 30th of March, 1867, the filling up and signature is in my handwriting; that of May 4, 1867, the filling up and signature is in my handwriting, as it appears by the check book, in my handwriting, by entries made at the time by me; that of Sept. 15, 1866, and that of the 30th March, 1867, were given to Samuel Oliver, on account of stairs, 5th avenue, corner West 47th street: that of Feb'y 16, as appears by the check-book, in my handwriting, reads as follows: "5th avenue, corner West 47th street, paid Samuel Oliver, Feb'y 16, $400;" that of Feb'y 2, 1867, as appears by the check-book, in the handwriting of John B. Morgan, was given to Samuel Oliver, on account of stair-building, &c., 5th avenue, corner West 47th street; that of March 23, 1867, as appears by check-book, in the handwriting of John B. Morgan, was paid to Samuel Oliver, on account of wainscotting, 5th avenue, corner West 47th street; that of May 4, 1867, as appears by the check-book, in my handwriting at the time, reads as follows: "5th avenue, corner West 47th street, paid Samuel Oliver balance due per bill, May 4, $103.76."

Q. 156. Look at the checks now produced and shown you, as
464 follows: "New York, 17th April, 1866. The Manufacturers' National Bank pay to the order of Frederick Seybold seventy-five dollars. James K. Place & Co., ($75,) by L. W. Burritt, j'r, att'y." Also, "New York, 23d Feb., 1866. The Manufacturers' National Bank pay to the order of Frederick Seybold, fifty dollars. James K. Place & Co., ($50,) by L. W. Burritt, j'r. att'y." Also, "New York, June 4, 1866. The Manufacturers' National Bank pay to the order of F. Seybold, fifty-seven and 44-100 dollars. James K. Place & Co., ($57 44-100,) by L. W. Burritt, j'r, att'y," and state in whose handwriting are the filling up and signature to the same checks, and what the same were severally given for.

A. The filling up and signatures are in my handwriting. Those dated 23d Feb'y, 1866, and the 17th April, 1866, as appears by the check book, in my handwriting at the time, were paid F. Seybold on account of framing, 5th avenue, corner 47th street. That dated June 4, 1867, as appears by the check-book in my handwriting, reads as follows: "5th avenue, corner West 47th street, paid balance F. Seybold account, June 4, $57.44."

Q. 157. Look at the checks now produced and shown you, as follows: "New York, 20th March, 1867. Pay to the order of Philbin & Quinn one thousand dollars, ($1,000.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, Aug. 21, 1867. The Manufacturers' National Bank, pay to the order of Philbin & Quinn twelve hundred and sixty-eight and 39-100 dollars, ($1,268.39.) James K. Place & Co.,

by L. W. Burritt, j'r, att'y." Also, "New York, Oct. 31, 1867. The Manufacturers' National Bank pay to the order of M'r Stephen Philbin one hundred aad eight and 38-100 dollars, ($108.38.) James K. Place & Co., by J. B. Morgan, att'y," and state in whose handwriting are filling up and signature of those checks respectively, and what the same were given for.

A. Those dated 20th March, 1867, and Aug. 21, 1867, the filling up and signature are in my handwriting; that dated October 3, 1867,
465 the filling up and signature is in the handwriting of John B. Morgan; that dated 20th March, 1867, as appears by the check-book in my handwriting, was given to Philbin & Quinn, account of plumbing, Fifth avenue, corner West 47th street; that dated August 2, 1867, as appears by the check-book in my handwriting, was given to Philbin & Quinn, balance of gas-fitting, &c., premises 5th avenue corner West 47th street; that dated Oct. 3, 1867, as appears by the check-book in the handwriting of John B. Morgan, reads as follows: "5th avenue, corner West 47th street, paid Stephen Philbin bill of first Sept., Oct. 3, $108,38."

Q. 158. Look at the checks now produced and shown to you, as follows: "New York, 18 Dec., 1866. The National Park Bank pay to the order of J. E. McFarland seventeen hundred dollars, ($1,700.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, Jan. 10, 1867. The Manufacturers' National Bank pay to the order of M'r J. E. McFarland two hundred and twenty-five and 56-100 dollars, ($225.56.) James K. Place & Co., by J. B. Morgan, att'y," and state in whose handwriting are the filling up and signature of those checks respectively, and what they were given for.

A. That dated 18 Dec., as it appears by the check-book in my handwriting at the time, was given to J. E. McFarland on account of blue-stone work, 5th avenue, corner of West 47th street, and the filling up and signature is in my handwriting; that dated Jan'y 10, 1867, the filling up and signature is in the handwriting of John B. Morgan, as appears by the check-book, and was given to J. E. McFarland for balance of bill of blue-stone work, 5th avenue, corner West 47th street.

Q. 159. Look at the checks now produced and shown to you, as follows: "New York, Sept. 19, 1865. The Metropolitan National Bank pay to the order of E. L. Roberts, one thousand and thirty-six and 80-100 dollars, ($1,036.80.) J. K. & E. B. Place." Also, "New York, July 27th, 1866. The National Park Bank pay to the order of M'r E. L. Roberts five hundred dollars, ($500.) James K. Place & Co." Also,
466 "New York, Sept. 7, 1867. The Manufacturers' National Bank pay to the order of E. L. Roberts five hundred dollars. James K. Place & Co.," and state in whose handwriting the filling up and signature are respectively, and what they were given for.

A. That dated September 19, 1865, the filling up is in my handwriting, and the handwriting of the signature is that of Ephraim B. Place, and as it appears by the check-book, in my handwriting, reads as follows: "E. L. Roberts, 720, gold at 144, Sept. 19, $1,036.80." That of July 27, 1866, the filling up is in the handwriting of John B. Morgan, the signature that of James K. Place; and, as appears by the check-book, in the handwriting of John B. Morgan, was given to E. Roberts on account; that dated September 7, the filling up is in the handwriting of G. S. Keyes, the signature that of James K. Place, and, as it appears by the check-book in the handwriting of G. S. Keyes, was given to E. L. Roberts on account.

Q. 160. Please look at the checks now shown you as follows: "New

York, Aug. 2, 1866. Manufacturers' National Bank pay to the order of John B. Morgan five hundred dollars. James K. Place & Co., by L. W. Burritt, j'r, attorney. ($500.)" Endorsed: "Pay to the order of Higgins and Bommer. John B. Morgan." Also, "New York, April 27, 1867. The Metropolitan National Bank pay to the order of Higgins & Bommer four hundred and ninety-one and $\frac{60}{100}$ dollars. James K. Place & Co., by L. W. Burritt, j'r, attorney. ($491 $\frac{60}{100}$.)" Also, "New York, Sept. 28, 1867. The Manufacturers' National Bank pay to the order of Mess'rs Higgins & Bommer eighteen dollars. James K. Place & Co., by John B. Morgan, attorney, ($18.)" and state in whose handwriting the filling up and signature are, and the endorsement as far as read, and for what they were given.

A. That dated Aug. 2, 1866, the handwriting and filling up is that of John B. Morgan, the signature is mine, and the endorsement to Higgins & Bommer in the handwriting of John B. Morgan; that of Sept. 28, 1867, the filling up and the signature is in the handwriting of
467 John B. Morgan: that of April 27, 1867, the filling up and signature is in my handwriting; that dated August 2, '66, as appears by the check-book in the handwriting of John B. Morgan, was given on account of heating-apparatus, Fifth avenue, corner of Forty-seventh street; that dated September 28, 1867, as appears by the check-book in the handwriting of John B. Morgan, was given to Higgins & Bommer, bill of 28th of September, premises Fifth avenue, corner West Forty-seventh street; that dated April 27, 1867, as appears by the check-book in my handwriting at the time, was given to Higgins & Bommer for furnaces, &c., Fifth avenue, corner West Forty-seventh street.

Q. 161. Look at the checks now produced and shown to you as follows: "New York, October 27, 1865. The Manufacturers' National Bank pay to receiver of taxes or order four thousand four hundred and ninety-three and 97-100 dollars. J. K. & E. B. Place, by L. W. Burritt, j'r, attorney, ($4,493.97.)" Also, "New York, October 27, 1866. The Manufacturers' National Bank pay to the order of receiver of taxes two thousand two hundred dollars. James K. Place & Co., by L. W. Burritt, j'r, attorney, ($2,200.)" Also, "New York, October 30, 1866. Manufacturers' National Bank pay to the order of receiver of taxes twelve hundred and thirty dollars. James K. Place & Co., by L. W. Burritt, j'r, attorney, ($1,230.)" Also, "New York, July 30, 1867. Pay to the order of Croton Aqueduct Dept. seventy-seven dollars. James K. Place & Co., by L. W. Burritt, j'r, attorney, ($77,)" and state in whose handwriting the filling up and signature are respectively, and for what they were given.

A. That dated October 27, 1865, the margin in the check-book reads as follows: "Taxes, October 27th, $4,493.97," and carried to the blotter cash-book as follows: "Lots West Forty-third street, paid taxes 1865, int., $\$297\frac{0}{0}$. ($297.00;) Fifth avenue, corner Forty-seventh street, paid tax 1865, int. off, $\$163\frac{35}{100}$, ($163.35;) James K. Place, loan-account,
paid tax 1865, Harlem lots, int. off, $\$16\frac{44}{100}$, ($16.30;) James
468 K. Place paid tax, personal, $10,000, 1865, int. off, $\$297\frac{0}{0}$, ($297;) Place & Turlay, special, paid tax 1865 on $15,000; J. K. Place, personal, int. off, $\$445\frac{50}{100}$, ($445.50;) real estate, 132 and 134 Front st., paid tax 1865, int. off, $\$1633\frac{45}{100}$, ($1,633.45;) M'r's H. Barker, paid tax 1865, personal and real estate, $549.45." The signature and filling up is in my handwriting; also those dated Oct. 27, 1865, Oct. 30, 1866, July 30, 1867, the signature and filling up are in my handwriting. That dated Oct. 30, 1866, appears by the check-book in my handwriting, and reads as follows: "Tax, Oct. 30, $1,230;" carried to the blotter cash-

book, in the handwriting of John B. Morgan, as follows: "M'r's H. Barker, tax 1866, $425.50, less int., $2.60, $422.90. Lots West 43d street, tax 1866, $460, less int., $2.80, $457.20. 5th avenue, corner West 47th street, tax 1866, $345, less int., $2.10, $342 90." That dated Oct. 27, 1866, as appears by the check-book, in my handwriting, reads as follows: "Receiver of taxes, Oct. 27, $2,200," and carried to the blotter cash-book, in the handwriting of John B. Morgan, as follows: "Real estate, 132 and 134 Front street, paid city tax for 1866, $1,485. D. B. Alger paid tax 1866, $760.05." The difference between the check and the amounts so stated, I presume, was paid in currency. That dated July 30, 1867, as appears by the check-book, in my handwriting, reads as follows: "Water-taxes July 30, $77," and carried to the blotter cash-book, in my handwriting, as follows: "R. est., 132 Front, water-tax to first May, 1868, $56;" "5th avenue, corner W. 47th street, ditto, ditto, ditto, $13; M'r's H. Barker, ditto, house E. 26th street, $8."

Q. 162. Please look at the check now shown you, as follows: "New York, June 12, 1866. North River Bank pay to the order of Sparkman, Truslow & Co. fifty-two dollars. James K. Place & Co., ($52,) by L. W. Burritt, j'r, att'y," and state in whos' handwriting is the filling up and signature, and for what it was given.

A. The signature and filling up is in my handwriting, as appears by the check-book, in my handwriting at the time; it was given them for a
469 bill of $1.75, dated first of June, 1866, account of James K. Place & Co., and for a bill against James K. Place, May 19, 1866, $50.25.

Q. 163. Please look at the check now shown you, as follows: "New York, Aug. 24, 1866. The Manufacturers' National Bank pay to the order of McKenzie & Clanranald two hundred and thirty-nine and $\frac{10}{100}$ dollars, ($239.10,) James K. Place & Co.," and state in whose handwriting the filling up and signature are, and for what they were given.

A. I think the filling up is that of Joel White; that of the signature, of M'r James K. Place; and, as appears by the check-book, in the handwriting of Joel White, it was given them for a bill of gas-fixtures 21st August, 5th avenue, corner West 47th street.

Q. 164. Please look at the check now shown you, as follows: "New York, Nov. 27, 1866. The Manufacturers' National Bank pay to the order of M'r P. Heany fifty dollars. James K. Place & Co., ($50,) by J. B. Morgan, att'y," and state in whose handwriting are the filling up and signature, and for what it was given.

A. The handwriting of the filling up and signature is that of M'r John B. Morgan, and, as appears by the check-book, in the handwriting of John B. Morgan, was given him on account of sod and mould, 5th avenue, corner West 47th street.

Q. 165. Please look at the check now shown you, as follows: "New York, Feb. 12, 1867. The Manufacturers' National Bank pay to the order of Herring, Farrell & Sherman two hundred and twenty-five dollars, ($225.) James K. Place & Co.," and state in whose handwriting the filling up and signature are, and for what it was given.

A. I think the filling up is in the handwriting of G. S. Keyes, and the signature that of James K. Place. The entry in the check-book reads as follows: "Herring, Farrell & Sherman, J. K. P., on account of 5th avenue and 47th street, Feb. 12, $225."

Q. 166. Look at the check now shown you, as follows: "New York, Feb. 26, 1867. The Metropolitan National Bank pay to the order of H. Sinclair eighty-four dollars, ($84.) James K. Place & Co., by L.
470 W. Burritt, j'r," and state in whose handwriting the filling up and signature is, and for what it was given.

A. The filling up and signature is in my handwriting; and, as appears by the check-book in my handwriting at the time, it was given him for plaster ornaments, 5th avenue, corner West 47th street.

Q. 167. Look at the check now shown you, as follows: "New York, March 30, '67. The Manufacturers' National Bank pay to the order of Mess. J. & P. Garry five hundred dollars, ($500.) James K. Place and Co., by J. B. Morgan, att'y," and state in whose handwriting the filling up and signature is, and for what it was given.

A. The filling up and signature is in the handwriting of John B. Morgan; and, as appears by the check-book in his handwriting, was given them on account of excavating lots on 43d street.

Q. 168. Look at the check now shown you, as follows: "New York, March 30, '67. The Manufacturers' National Bank pay to the order of Mess. J. & P. Garry five hundred dollars, ($500.) James K. Place & Co., by J. B. Morgan, att'y," and state in whose handwriting the filling up and signature is, and for what it was given.

A. The filling up and signature is in the handwriting of John B. Morgan; and, as appears by the check-book in his handwriting, was given on account of excavating lots on 43d street.

Q. 169. Look at the check now shown you, as follows: "New York, April 30, 1867. Manufacturers' National Bank pay to the order of M'r E. Holmes one hundred and ninety-five and 50-100 dollars, ($195.50.) James K. Place & Co., by J. B. Morgan, att'y," and state in whose handwriting the filling up and signature is, and for what it was given.

A. The filling up and signature is in the handwriting of John B. Morgan; and, as appears by the check book in his handwriting, was given to E. Holmes for burglar-alarm, 5th avenue, corner 47th street.

Q. 170. Look at the check now shown to you, as follows: "New York, 30 April, 1867. The Manufacturers' National Bank pay to the order of Cox Brothers one thousand dollars, ($1,000.) James K. Place & 471 Co., by L. W. Burritt, j'r, att'y," and state in whose handwriting the signature and filling up are, and for what it was given.

A. The signature and filling up is in my handwriting, and the entry in the check-book, in my handwriting at the time, reads as follows: "James K. Place paid Cox Brothers, April 30, $1,000."

Q. 171. Look at the check now shown you, as follows: "New York, May 8, '67. Pay to the order of Architectural Iron-Works three hundred and thirty-nine and $\frac{55}{100}$ dollars, ($339\frac{55}{100}$.) James K. Place & Co., by J. B. Morgan, att'y," and state in whose handwriting the filling up and signature are, and for what it was given.

A. The handwriting of the filling up and signature is that of John B. Morgan, and the entry in the check-book is in the handwriting of John B. Morgan, and reads as follows: "5th avenue, corner 47th st., paid Architectural Iron-Works bill first March, May 8, $309.58."

Q. 172. Look at the check now shown to you, as follows: "New York, Sept. 23, 1867. The Metropolitan National Bank pay to the order of Richard S. Place three hundred and thirty-seven and $\frac{50}{100}$ dollars, ($337\frac{50}{100}$.) James K. Place & Co.," and state in whose handwriting the signature and filling up is, and for what it was given.

A. The filling up, I should say, was in the handwriting of G. S. Keyes, and the signature that of James K. Place. The entry in the check-book, in the handwriting of G. S. Keyes, reads as follows: "Richard S. Place, Susquehanna Seminary, insurance, $312.50; 5th avenue house, $25—$337.50, Sept. 23."

Q. 173. Look at the check now shown you, as follows: "New York, March 22, 1866. The Manufacturers' National Bank pay to the order of

John B. Morgan thirty-five hundred dollars, ($3,500.) James K. Place & Co., by L. W. Burritt, j'r., att'y." Endorsed, "Pay to the order of Morgan & Anderson. John B. Morgan," and state in whose handwriting the filling up and signature is, and endorsement, as far as read, and for what it was given.

A. The date, and the amount, and the endorsement, as far as read, is in the handwriting of John B. Morgan, and the balance and the signature is in my handwriting. The entry in the check-book, in the
472 handwriting of J. B. Morgan, indicates that it was given to Morgan & Anderson for 3d payment cut-stone work, 5th avenue and 47th street.

Q. 174. Have you looked through the check-books, blotter cash-book, cash-book, and ledger of J. K. & E. B. Place and James K. Place & Co. to ascertain whether the payments shown by the above checks are entered on such check-books, blotter cash-book, cash-book, and ledger? And, if you find them in the ledger, state where.

A. I have looked through the books referred to, and find all the said checks referred to above entered on the check-books, blotter cash-book, cash-book, and ledger of J. K. & E. B. Place and J. K. Place & Co., and find all of them charged in the ledger under the account headed "5th avenue, corner West 47th street," with the words "J. K. Place" in red ink, at folio 86, then carried to folio 31, and ending on folio 34, with the exception of the following checks: check on the Manufacturers' National Bank, dated Oct. 30, 1866, pay to the order of receiver of taxes $12.30, signed James K. Place & Co., by L. W. Burritt, j'r, att'y, of which I find $342.90 charged to the 5th avenue, corner West 47th street, taxes 1866, less interest, and $457.20 to lots West 43d street, taxes 1866, less interest; and the check dated N. Y., Oct. 27, 1865, on the Manufacturers' National Bank, pay to the receiver of taxes or order $4,493.97, $103.35 is charged to Fifth avenue, corner W. 47th street, taxes 1865, less interest; $297 to lots West 43d street, for taxes 1865, and the balance is already stated in my testimony. Check dated N. Y., June 12, 1866, on the North River Bank, pay to the order of Sparkman, Truslow & Co. $52, signed Ja's K. Place & Co., by L. W. Burritt, j'r, att'y, $50.25 of said check is charged to 5th avenue, corner West 47th street. Check dated March 30, 1867, on the Manufacturers' National Bank, pay to the order of Mess'rs J. & P. Garry $500. James K. Place & Co., by James B. Morgan, att'y, is charged to lots West 43d street. Check dated N. Y., May 29, 1867, on the National Park Bank,
473 pay to the order of James Howell, j'r, $1,201.46, James K. Place & Co., by L. W. Burritt, j'r, att'y, I find charged $969.39 to "5th ave., cor. West 47th street;" the balance, $232.07, is charged to lots on 43d street. Check dated N. Y., July 27, 1867, on the Manufacturers' National Bank, pay to the order of Mess'rs Smith & True $484.66, signed Ja's K. Place & Co., by J. B. Morgan, att'y, $360.96 is charged to "5th avenue, corner West 47th street;" the balance, $123.70, is charged to "lots on 43d street." Check dated N. Y., July 30, 1867, National Park Bank, pay to the order of the Croton Aqueduct dep't $77, signed Ja's K. Place & Co., by L. W. Burritt, j'r, att'y, $13 is charged to "5th avenue, corner West 47th street;" $56 is charged to 132 and 134 Front street; $8 is charged to M'r's H. Barker, for water-tax. Check dated N. Y., Nov. 1, 1867, on the National Park Bank, pay to the order of Joseph S. Barker $2,035.93, signed Ja's K. Place & Co., by L. W. Burritt, j'r, att'y, $1,050 is charged to "5th avenue, corner West 47th street;" the balance, $985.93, is charged to Joseph S. Barker for interest. Check dated N. Y., Sept. 23, 1867, Metropolitan National Bank

pay to the order of Richard S. Place $337.50, signed Ja's K. Place & Co., $25 is charged to "5th avenue, corner West 47th street;" $312.50 is charged to Susquehana Seminary for insurance. Check date N. Y., Aug. 2, 1867, Manufacturers' National Bank, pay to the order of Mess'rs Smith & True $377.01, signed Ja's K. Place & Co., by J. B. Morgan, att'y, $288.80 is charged to Fifth avenue, corner West 47th street; the balance is included in an amount charged to "lots on 43d street." Check dated N. Y., Oct. 27, 1866, Manufacturers' National Bank, pay to the order of receiver of taxes $22.00, signed Ja's K. Place & Co., by L. W. Burritt, j'r, att'y, $1,485 is charged to real estate 132 and 134 Front street, city taxes, 1866; the balance is included in an amount charged D. B. Alger, for taxes, 1866. Check dated N. Y., Nov. 7, 1867, Manufacturers' National Bank, pay to the order of E. L. Roberts $500,
474 signed Ja's K. Place & Co., is charged to E. L. Roberts. Check dated Sept. 19, 1865, on the Metropolitan National Bank, pay to the order of E. L. Roberts $1,036.80, signed J. K. & E. B. Place, $316.80 of said check is charged to premium on specie; I see no charge for the balance of said check.

Q. 175. Please to look at the check now produced and shown you, and state in whose handwriting the filling up and signature are, and for what the same was given: "New York, May 11, 1867. Manufacturers' National pay to the order of Mess. Janes, Kirtland & Co. two hundred sixty-five 74 100 dollars, ($265.74.) James K. Place & Co., by J. B. Morgan, attorney."

A. The filling up and signature is in the handwriting of John B. Morgan; and the entry on the check book, in the handwriting of John B. Morgan, is as follows: "Lots, West 43d street, paid Janes, Kirtland & Co. bill, 1 May, May 11, $265.74."

Q. 175¼. Please look at the check now produced and shown you, as follows, and state in whose handwriting the filling up and signature is, and for what it was given: "New York, March 5, 1866. Manufacturers' National Bank pay to the order of E. L. Roberts three hundred and seventy-three 94-100 dollars, ($373.94.) James K. Place & Co., by L. W. Burritt, j'r, attorney."

A. The filling up and signature is in my handwriting; and, as appears by the entry in the check-book in my handwriting, it reads as follows: "*Lost* West 43d street, paid E. L. Roberts' passage to and from Liverpool, M'ch 5, , $373.94."

Q. 176. Look at the check now produced and shown you, and state in whose handwriting the filling up and signature is, and for what it was given: "New York, May 11, 1867. Manufacturers' National Bank pay to the order of Mess. Hageman, Arnold & Co. two hundred five 60 100 dollars, ($205.60.) James K. Place & Co., by J. B. Morgan, att'y."

A. The filling up and signature is in the handwriting of John B. Morgan; and, as appears by the entry in the check-book in the handwriting of John B. Morgan, was given them for bluestone, used on lots West 43d street.

475 Q. 177. Look at the checks now produced and shown you, as follows, and state in whose handwriting the filling up and signature are, and for what they were given: "New York, Sept. 21, 1865. Manufacturers' Bank pay to the order of J. D. Sparkman, esq., or order, fifty dollars, ($50.) J. K. & E. B. Place, by L. W. Burritt, j'r, att'y." Also, "New York, Oct. 3, 1865. Manufacturers' Bank pay to the order of James D. Sparkman, esq., or order, two hundred and ninety 85-100 dollars, ($290.85.) J. K. & E. B. Place, by L. W. Burritt, j'r, att'y."

A. The filling up and signature of the check dated Sept. 21, 1865, is in my handwriting; and, as appears by an entry in the check book in my handwriting, it was given him for commission buying lots in West 43d street. That dated Oct. 3, 1865, the filling up and signature is in my handwriting; and, as appears by the check-book in my handwriting, was given him for assessment for pavement lots 43d street.

Q. 178. Look at the checks now produced and shown to you, as follows, and state in whose handwriting the filling up and signature are, and for what the same were given, respectively: "New York, May 7, 1866. The Metropolitan National Bank pay to the order of Robert J. Livingston four hundred and fifty dollars. James K. Place & Co., by L. W. Burritt, j'r, attorney. ($450.") Also, "New York, November 8, 1866. The Metropolitan National Bank pay to the order of Robert J. Livingston, or bearer, nine hundred dollars. James K. Place & Co., by L. W. Burritt, j'r, attorney. ($900.") Also, "New York, November 9, 1866. The Manufacturers' National Bank pay to the order of M'r R. J. Livingston nine hundred dollars. James K. Place & Co., by L. W. Burritt, j'r, attorney. ($900.") Also, "New York, April 30, 1867. Metropolitan National Bank pay to the order of Robert J. Livingston nine hundred dollars. James K Place & Co., by L. W. Burritt, j'r, attorney. ($900.") Also, "New York, Nov. 2, 1867. The National Bank of Commerce pay to the order of Robert J. Livingston nine hundred
476 dollars. James K. Place & Co., by L. W. Burritt, j'r, att'y. ($900.")

A. The filling up and signature of the check dated May 7, '66, is in my handwriting; and, as appears by the check-book in my handwriting, it was given him for rent of lots West Forty-third street, due first of May. The filling up and signature of the check dated November 8, 1866, is in my handwriting; and, as appears by the check-book in my handwriting, it was given for six months' ground rent of lots West Forty-third street; but as the check bears the following endorsement in my handwriting, "James K. Place & Co., by L. W. Burritt, j'r, att'y," and the endorsement of the Manufacturers' National Bank, I think it was not paid to Livingston, but deposited to the credit of J. K. Place & Co. in the Manufacturers' National Bank, and the check following it in this testimony, dated Nov. 9, '66, was given in its place. The filling up and signature of the check, dated November 9, 1866, is in the handwriting of John B. Morgan; and, as appears by the check-book in his handwriting, was given R. J. Livingston for six months' ground-rent to first of November; this check is the one that was given for the check read immediately before this one in this day's testimony. The filling up and signature of the check dated April 30, 1867, is in my handwriting; and, as appears by the check-book, in my handwriting, was given him for six months' ground-rent of lots West Forty-third street, due first May, 1867; the filling up and signature is in my handwriting, and, as appears by the check-book, in my handwriting, was given him for six months' rent of six lots West Forty-third street, to November, 1867

Q. 179. Please to look at the checks now produced and shown to you, as follows, and state in whose handwriting is the signature and filling up, and for what they were given, respectively: "New York, Dec. 29, 1866. The National Park Bank pay to the order of H. H. Craigie three hundred and fifty dollars, ($350.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, May 4, 1867. Manufacturers' National Bank pay to the order of H. H. Craigie four hundred
477 and five 43 100 dollars, ($405.43.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, June 1st, 1867. Man-

ufacturers' National Bank pay to the order of Mess. H. H. Craigie & Co. one hundred seventy-four 21-100, ($174.21.) James K. Place & Co., by J. B. Morgan, att'y."

A. The filling up and signature of the check dated Dec. 29, 1866, is in my handwriting; and, as appears by the check-book in my handwriting, was given him, account of plumbing, lots West 43d street. The filling up and signature of the check dated May 4, 1867, is in my handwriting; and, as appears by the check-book in my handwriting, was given him for balance of plumbing, lots West 43d street. The filling up and signature of the check dated June 1st, 1867, is in the handwriting of J. B. Morgan; the entry in the check-book, in the handwriting of John B. Morgan, reads as follows: "Lots West 43d street, paid H. H. Craigie, bill of 11th May, June 1st, $174.21."

Q. 180. Please look at the check now produced and shown you, and state in whose handwriting the filling up and signature is, and for what the same was given: "New York, Nov. 23d, 1866. The Metropolitan National Bank pay to the order of Robert White one thousand dollars, ($1,000.) James K. Place & Co., by L. W. Burritt, j'r, atty." Also, "New York, June 4, 1867. Metropolitan National Bank pay to the order of Robert White one thousand dollars, ($1.000.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, Feb'y 1, 1867. Manufacturers' National Bank pay to the order of M'r R. White one thousand dollars, ($1,000.) James K. Place & Co., by J. B. Morgan, att'y." Also, "New York, Feb'y 26, 1867. North River Bank pay to the order of R. White two thousand dollars, ($2,000.) Ja's K. Place & Co., by L. W. Burritt, j'r, atty." Also, "New York, April 12, 1867. Manufacturers' National Bank pay to the order of M'r Robert White two thousand dollars, ($2,000.) James K. Place & Co., by J. B. Morgan, att'y." Also, "New York, May 22, 1867. Metropolitan National Bank pay to the order of R. White ten hundred fifty-nine dollars,
478 ($1,059.) Ja's K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, June 22, 1867. Manufacturers' National Bank pay to the order of M'r Robert White two hundred fifty dollars, ($250.) James K. Place & Co., by J. B. Morgan, att'y." Also, "New York, 6 July, 1867. Manufacturers' National Bank pay to the order of Robert White one hundred forty-three 35-100 dollars, ($143.35.) Ja's K. Place & Co., by L. W. Burritt, j'r, att'y."

A. The filling up and signature to the check dated Nov. 23, 1866, is in my handwriting; and, as appears by the check-book in my handwriting, was given him for first payment account of carpenter-work, lots West 43d street. The filling up and signature of check dated June 4, '67, is in my handwriting; and, as appears by the check-book in my handwriting, was given him for second payment on account of carpenter-work, lots West 43d street. The filling up and signature is in J. B. Morgan's handwriting, of check dated Feb. 1, 1867; and, as appears by the check-book in his handwriting, was given Robert White for third payment carpenter-work, lots West 43d street. The filling up and signature of the check dated Feb. 26, '67, is in my handwriting; and, as appears by the check-book in my handwriting, was given Robert White for fourth payment, carpenter-work, lots West 43d street. The filling up and signature of the check dated April 12, '67, is in the handwriting of John B. Morgan; and, as appears by check-book in his handwriting, was given Robert White on account of carpenter-work, lots West 43d street. The filling up and signature of the check dated May 22d, 1867, is in my handwriting; and, as appears by the entry in the check-book, was given Robert White for balance on account of carpenter-work, lots West 43d

street. The filling up and signature of check dated June 22d, '67, is in the handwriting of John B. Morgan; and, as appears by the check-book in his handwriting, was given to Robert White, to account carpenter-work, lots West 43d street. The filling up and signature of check dated
479 6th July, 1867, is in my handwriting; and, as appears by the check-book in my handwriting, was given him for balance of extra work on lots West 43d street.

Q. 181. Please look at the checks now produced and shown you, as follows, and state in whose handwriting are the signatures and filling up, and for what they were given: "New York, 6th July, 1867. The Metropolitan National Bank pay to the order of Robert White one hundred and forty-three 35-100 dollars, ($143.35.) James K. Place & Co., by L. W. Burritt, j'r., att'y."

A. The filling up and signature is in my handwriting; and, as appears by the check-book in my handwriting, was given him for balance of extra work on lots West 43d street.

Q. 182. Please look at the checks now produced and shown you, as follows, and state in whose handwriting is the filling up and signature, and for what they were given, respectively: "New York, Nov. 24, 1866. The Metropolitan National Bank pay to the order of J. T. Smith two thousand dollars, ($2,000.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, Dec. 1, 1866. The Metropolitan National Bank pay to the order of J. T. Smith one thousand dollars, ($1,000.) James K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, March 12, 1867. Manufacturers' National Bank pay to the order of M'r J. T. Smith four hundred and nine dollars and fifty cents, ($409.50.) James K. Place & Co., by J. B. Morgan, att'y." Also, "New York, April 11, 1867. Manufacturers' National Bank pay to the order of M'r J. T. Smith one thousand dollars, ($1,000.) Ja's K. Place & Co., by J. B. Morgan, att'y." Also, "New York, April 22, 1867. Manufacturers' National Bank pay to the order of M'r J. T. Smith two thousand and fifty dollars. James K. Place & Co., by J. B. Morgan, att'y, ($2,050.)" Also, "New York, 29 May, 1867. The National Park Bank pay to the order of J. T. Smith eight hundred and fifty-nine 50-100 dollars. James K. Place & Co., by J. B. Morgan, att'y, ($859.50.)"

A. The filling up and signature of the check dated Nov. 24, 1866, is in my handwriting; and, as appears by the check-book in my hand-
480 writing, was given him on account of mason-work on stables, lots West 43d street. The filling up and signature of the check dated Dec. 1, 1866, is in my handwriting; and, as appears by the check-book in my handwriting, was given him on account of mason-work, lots West 43d street. The filling up and signature of the check dated March 12, 1867, is in the handwriting of John B. Morgan; and, as it appears by the check-book in his handwriting, was given J. T. Smith for bill of mason-work of the 18th of Feb'y, lots on 43d street. The handwriting of the filling up and signature is that of John B. Morgan, of check dated April 11, '68; and, as appears by the entry in the check-book in his handwriting, was given J. T. Smith on account of stone walls, lots on 43d street. The filling up and signature of the check dated April 22, '67, is in the handwriting of John B. Morgan; and, as appears by the check-book in his handwriting, the entry reads as follows: "Lots on 43d street. Paid J. T. Smith, balance on stone walls, $1,750; ditto, mason-work, $300; April 22, $2,050." The signature and filling up of the check dated 29 May, 1867, is in my handwriting, and the entry in the check-book reads as follows: "Lots West 43d street, paid J. T. Smith, May 29, $859.50."

Q. 183. Please look at the checks now produced and shown to you, as follows, and state in whose handwriting the filling up and signature is, and for what they were given, respectively: "New York, Nov. 17, 1867. Manufacturers' National Bank pay to the order of Mess'rs J. & P. Garrey four hundred dollars, ($400.) Ja's K. Place & Co., by J. B. Morgan, att'y." Also, "New York, March 8, 1867. Manufacturers' National Bank pay to the order of Mess'rs J. & P. Garrey five hundred dollars, ($500.) Ja's K. Place & Co., by J. B. Morgan, att'y." Also, "New York, May 11, 1867. Manufacturers' National Bank pay to the order of Mess'rs J. & P. Garrey fifteen hundred dollars, ($1,500.) Ja's K. Place & Co., by J. B. Morgan, att'y." Also, "New York, July 6, 1867. Manufacturers' National Bank pay to the order of Mess'rs J. & P.
481 Garrey fifty-seven 50-100 dollars, ($57.50.) Ja's K. Place & Co., by J. B. Morgan, att'y."

A. The filling up and signature of the check dated Nov. 17, 1867, is in the handwriting of John B. Morgan; and, as appears by the check-book in his handwriting, was given them on account of grading lots on 43d street. The filling up and signature of the check dated March 8, 1867, is in the handwriting of John B. Morgan; and, as appears by the check-book in his handwriting, was given them on account of excavating lots on 43 street. The filling up and signature of the check dated May 11, 1867, is in the handwriting of John B. Morgan; and, as appears by the check-book in his handwriting, was given them for balance of excavating cellars of lots on 43d street. The filling up and signature of the check dated July 6, 1867, is in the handwriting of John B. Morgan; and, as appears by the check-book in his handwriting, was given them for bill of the 6th of July, on account of lots on 43d street.

Q. 184. State whether or not you have examined the check-books, blotter cash-book, cash-book, and ledger of J. K. & E. B. Place and Ja's K. Place & Co., to see if the payments shown in said checks are entered on such check-books, blotter cash-book, cash-book, and ledger, respectively, and state the headings, if any, under which you find them entered in the ledger, and the page in said account, and annex to your answer a copy thereof.

A. I have examined the books named, and find the checks entered on said books, with the exception of the checks dated Nov. 8, 1866, on the Metropolitan National Bank, for $900, and Nov. 9, 1866, on the Manufacturers' National Bank, for $900, only one of which is charged; that on the Metropolitan Bank, I think, has been deposited in the Manufacturers' National Bank to the credit of James K. Place & Co., as it bears the endorsement of the Manufacturers' National Bank. The heading of the account is, "Lots on 43d street," on folio 30 of the ledger. The following is a copy:

482 EXHIBIT 35.

Lots on 43d street.

1865.		D'R.		
Mar. 24	To cash	134	$20 75
Sep. 22	"	261	50 00
Oct'r 3	"	269	290 85
27	"	285	297 00
Nov. 30	Interest	253	6 40
"	Marsh, Coe & Wallis	259	20 70
1866.			
Mar. 5	To cash	55	373 94

EXHIBIT 35—Continued.

May	7	"	101	450 00	
Oct'r	20	"	238	4,000 00	
	31	"	248	457 20	
Nov.	1	"	250	4,000 00	
	8	"	257	900 00	
	17	"	266	400 00	
	23	"	272	1,000 00	
	24	"	274	2,000 00	
Dec'r	1	"	279	1,000 00	
	10	"	287	350 00	
	29	"	304	350 00	
	31	To interest	89	243 16	
					$16,210 00
1866.					
Dec.	31	To balance		$16,210 00	
1867.					
Jan.	4	To cash	2	1,000 00	
Feb'y	1	"	26	1,000 00	
	27	"	50	2,000 00	
Mar.	8	"	58	500 00	
	12	"	61	409 50	
	30	"	72	532 50	
Ap'l	11	"	79	1,000 00	
	12	"	80	2,000 00	
	22	"	86	2,050 00	
	30	"	92	900 00	
May	4	"	79	405 43	
	11	"	100	1,971 34	
	22	"	109	1,059 00	
	29	"	113	1,091 57	
June	1	"	117	174 21	
483					
June	6	"	119	$3 56	
	22	"	130	250 00	
July	6	"	137	200 85	
	27	"	152	123 70	
Aug't	2	"	156	61 52	
	"	"	156	112 48	
Nov.	2	"	221	900 00	
	19	"	233	80 00	
	"	" E. L. Roberts	183	3,100 00	
	20	" interest	183	1,721 34	
					$38,857 00
1867.		C'R.			
May	20	By sundries	134	$260 00	
		" "	180	38,597 00	
					$38,857 00

Q. 185. What is the object of keeping a profit and loss account?

A. As I understand it, to ascertain the result of the year's business.

Q. 186. What class of items do the respective sides on a profit and loss account usually contain?

A. The debit side shows the losses, and the credit side the profits.

Q. 187. Will you please produce the profit and loss account of James K. Place & Company for the year 1866?

A. I produce it at folio 103—continued on folio 102—of Ledger C, as follows:

EXHIBIT 36.

Profit and loss, 1866.

		D'R.		
1865.				
Dec. 30	To cash		331	$50 00
1866.				
Jan. 29	"		20	100 00
Feb. 1	"		24	25 00
24	"		45	25 00
29	"		75	100 00
July 26	"		163	7 16
28	"		165	20 00
Aug. 20	"		181	30 88
Oct. 30	"		247	50 00
Dec. 31	To Sackett, B. & Co		84	6,078 19
"	" W. H. Davidson		"	100 00
"	" J. H. Studwell		"	200 00
"	" import'n from Rio, No. 3.		88	19,780 61
484 "	To F. H. McCready		93	333 80
"	" Groom Bros. & Co		92	1,107 71
"	" E. W. Van Benschoten		94	41 47
"	" insurance		96	19,311 67
"	" U. S. taxes		"	16,595 92
"	" storage		"	20,353 41
"	" brokerage		"	48,624 28
Dec. 31	" expense		96	$52,641 71
"	" interest		"	106,109 19
"	" Jackson & Pickert		94	1,178 64
"	" E. W. Van Benschoten		96	102 37
1867.				
March 1	" sundries, 1866		122	532 00
April 19	" cash, 1866		84	20 00
May 9	" impt'n, F. Milly, 1866		133	4,736 47
Aug. 1	" importation, Alvington		149c	9,865 67
1	" Vidfarle		150c	8,057 79
1	" Uller		150c	6,093 21
Oct. 23	" Svanen		167c	6,846 09
Nov. 20	" am'ts to fol		93d	81,884 18
20	" Dorsey & Billings		177	11 68
"	" A. T. Lawrence		"	165 00
"	" E. W. Wilson		"	43 00
"	" Williams, Y. & Kaas		"	833 77
"	" disb. to Washington		"	1,855 90
"	" Sackett, Belcher & Co		"	1,526 06
"	" Alvord, 250-450		"	700 00
1866.				
Dec. 31	" merchandise		97	812,062 66
	To folio 103			$1,228,200 49
		(From page 102.)		
1867.				
Nov. 20	To amount from fol		103	1,228,200 49
"	" Brinckerhoff & M		"	4,587 48
"	" C. H. Denison		"	325 00
"	" Hy. Butman		"	2,207 93
"				4,280 00
				$1,239,600 90
		C'R.		
1866.				
May 31	By advent. to N. O., Nos. 1 & 2		21a	$32 04
July 14	" P. & T., sugar refiners		49a	1,135 20
Sept. 30	" " "		59a	1,307 27
"	" " "		63a	703 00

EXHIBIT 36—Continued.

485				
Dec. 31	By U. S. certif's		88a	$42 25
"	" import'n ex Eleanor		90a	213 67
"	" " " Emily		90a	1,724 95
"	" merchandise, Agnes		97a	894,594 58
1867.				
Feb. 28	" import'n ex Warwick		119a	5,223 32
March 1	" sundries		122a	128 35
April 30	" "		126a	15,763 60
May 17	" import'n, Lola		132b	22,878 21
June 1	" P. & T., "special No. 2"		137a	2,100 00
3	" U. S. 7 3/10 notes		139a	305 00
Aug. 1	" imp't'n from Padang, No. 2		149b	20,855 48
Oct. 1	" imp't'n, Lucie		161b	17,622 36
15	" " Shaumut, Kronpring		164b	12,886 78
"	" " Umea		166b	2,418 03
Nov. 20	" am'ts to fol		93c	35,599 23
	To folio 103		.....	$1,035,533 32
	(From page 102.)			
1867.				
Nov. 20	By am't from fol		103	1,035,533 32
"	" James K. Place		185	153,050 68
"	" J. D. Sparkman		"	51,016 90
				$1,239,600 90
	D'R.			
1867.				
Nov. 20	To J. A. Robinson		189	442 71
"	profit and loss, 1867		195	14,602 14
"	James K. Place		196	25,434 12
"	J. D. Sparkman		"	8,478 04
	Balance		.....	4,280 00
				$53,237 01
	C'R.			
1867.				
Nov. 20	By balance		.....	4,280 00
20	" profit and loss, 1867		196	48,957 01
				$53,237 01
1867.				
Nov. 20	By balance			$4,280 00

Q. 188. State whether that account is or is not complete on the books.

A. It is, with the exception that there is a balance of $4,280.00 standing to the credit of it, which is left there to cover sundry debts
486 **which are unsettled and doubtful.**

Q. 189. When were the entries on that account, under date of Nov. 20th, 1867, and subsequent dates, made, and by whom?

A. I do not remember the time that they were made. The entries are in my handwriting.

Q. 190. Were they made on or after November 20th, 1867?

A. They were made after November 20th, 1867.

Q. 191. As the account stood on the books, exclusive of the entries in your handwriting, on the 31st December, 1866, was it complete?

A. No, sir.

Q. 192. Footing up the items which stood on that account at that date, state which way the balance appeared to be, and what appeared to be its amount.

A. The balance stood to the credit of the account on the 31st December, 1866; the amount was $606,785.95.

Q. 193. Did that balance indicate an excess of profits above losses to the amount of that balance as it stood?

A. It would have done if the account had been complete.

Q. 199. If the items already appearing on the account had been footed up, and that balance left on the credit side, would not that indicate a profit to that amount, growing out of these items?

A. Yes, sir.

Q. 195. What entry was necessary and usual in order to complete the account?

A. The balance to the debit of merchandise account should have been charged against the account of profit and loss, 1866.

Q. 196. What was that amount to the debit of merchandise account?

A. As it appeared by the books it was $812,062.66.

Q. 197. If that balance had been debited to profit and loss account at that time, what would have been the amount to the debit of that account?

A. According to the figures here, it would have been $205,276.71.

Q. 198. How would the profit and loss account then have been closed?

A. By charging James K. Place with his proportion of the loss and James D. Sparkman with his proportion.

Q. 199. State the amounts of their respective proportions of that loss.

A. James K. Place is charged with——

Q. 200. I didn't ask what he is "charged" with, but what would have been the proportion of that loss to each.

A. James K. Place, three-quarters, or $153,050.68, and James
487 D. Sparkman, one-quarter, or $51,016.90.

Q. 201. Did you, or did you not, at the end of the year 1866, know the result of that year's business?

A. Not at the end of 1866, but within two or three weeks after it.

Q. 202. Why were not the books closed so as to show that loss at that time?

A. Because I understood from James K. Place that he thought that the result, as shown by the profit and loss account, must be incorrect, and he preferred to have it left open on that account, so as to see if some errors could not be found; and, if it should prove to be correct, he wanted it left open for a time, so that those of the salesmen who had access to the books should not know the result of the year's business.

Q. 203. Please produce the account of James K. Place.

A. I produce the account of James K. Place, commencing at folio 2 of Ledger C, and continuing to folios 3 and 4, as follows:

EXHIBIT 37.

James K. Place.

1865.		D'R.			
Jan.	21	To cash	105a	$2,778 00	
	31	" "	109	600 00	
	"	" am't from loan b'k	2	10,000 00	
Feb.	17	" cash	118	300 00	
	28	" "	124	1,400 00	
Mar.	31	" "	138	1,500 00	
April	29	" "	156	450 00	
May	9	" "	163	300 00	
	31	" "	184	1,700 00	
June	13	" "	193	2,000 00	
	30	" "	204	1,000 00	
July	13	" "	212	2,200 00	
	26	" "	220	1,570 00	
	31	" "	224	1,400 00	
Aug.	16	" "	235	300 00	
	30	" "	245	18,586 05	
	31	" "	246	2,700 00	
Sept.	2	" "	248	232 88	
		" "	"	730 87	
	30	" "	267	570 00	
Oct.	27	" "	285	297 00	
	31	" "	288	900 00	
Nov.	8	" "	293	300 00	
488					
Nov.	24	To cash	304	$619 92	
	30	" "	313	1,722 00	
	"	" "	"	2,124 11	
	"	" J. K. Place, gold ac	251	8,172 38	
	"	" " donat'n ac	248	2,858 00	
	"	" U. S. 7-30 bonds	253	34,816 77	
	"	" profit and loss—1860	240	39 30	
	"	" " —1857	254	164 08	
	"	" Place & Turley	258	25,000 00	
	"	" Balance	.....	227,301 62	
					$354,632 98

1865.		C'R.			
Jan'y	1	By am't from Ledger B	5	$191,896 26	
	1	" profit and loss	192	2,778 00	
Nov.	30	" cash	313	50 00	
	"	" "	"	55 00	
	"	" "	314	37 00	
	"	" interest	240	10,937 24	
	"	" J. K. Place, bor. gold	251	675 00	
	"	" profit and loss—1863	244	1,548 75	
	"	" " —1858	254	120 04	
	"	" " —1859	254	135 92	
	"	" stock	239	75,000 00	
	"	" profit and loss—1865	261	71,399 77	
					$354,632 98

1865.		D'R.			
Dec.	1	To stock	1	$600,000 00	
	30	" cash	332	1,000 00	
1866.					
Jan.	23	" "	16	35 00	
	31	" "	24	1,000 00	
Feb.	2	" "	27	300 00	
	28	" "	49	1,500 00	
Mar.	31	" "	77	2,000 00	
April	30	" "	97	1,400 00	

EXHIBIT 37—Continued.

May	5	" "	101	300 00	
	1	Fifth avenue, cor. 47th st	32	3,600 00	
June	1			2,000 00	
	30			1,400 00	
July	31			1,850 00	
					$616,385 00
		C'R.			
1865.					
Nov.	30	By balance		$227,301 62	
489					
Dec.	26	By cash	327	$67 70	
	"	" "	327	50 00	
1866.					
May	1	" Orphan Asylum prop'y	27	320 00	
	1	" " "	3	3,600 00	
July	31	" balance to folio		385,045 88	
					$616,385 00
		D'R.			
1866.					
July	31	To balance		$385,045 88	
Aug.	7	" cash	171	300 00	
	31	" "	190	1,200 00	
Sept.	5	" "	194	232 88	
	10	" "	197	1,398 13	
	20	" "	207	6,216 45	
	29	" "	216	2,000 00	
		J. D. Sp'n, p. Mch. 10. '66	66	1,000 00	
Oct.	31	To cash	249	1,800 00	
Nov.	7	" "	256	300 00	
	30	" "	278	1,500 00	
Dec.	31	" sundries	84	1,603 05	
	"	" J. K. Place, donation ac	88	4,249 00	
	"	" interest	89	29,560 15	
	"	" cash	307	7,009 00	
	"	" Union Sugar Co	93	8,727 37	
	"	" J. K. P. gold ac	95	7,964 64	
					$460,097 55
		C'R.			
1866.					
Dec.	17	By cash	294	$133 33	
	31	" Brooklyn Ferry stock	85	1,092 82	
	"	" profit and loss—1864	89	1,069 45	
	"	" " —1860	90	37 50	
	"	" " —1868	91	209 92	
		Balance		457,554 53	
					$460,097 55
		D'R.			
1866.					
Dec.	31	To balance		$457,554 53	
1867.					
Jan'y	31	" cash	25	1,600 00	
Feb'y	2	" "	28	300 00	
	9	" "	36	485 15	
	28	" "	51	1,560 00	
Mar.	30	" "	72	1,500 00	
490					
Apr.	30	To cash	92	$1,760 00	
May	1	" "	93	300 00	
	23	" lots on 43d street	134	210 00	
	31	" cash	115	2,600 00	
June	29	" "	134	1,000 00	
July	31	" "	154	1,967 75	

EXHIBIT 37—Continued.

Aug.	5	" "	157	400 00	
	31	" "	174	928 41	
Sept.	5	" "	177	232 88	
	30	" "	194	1,382 28	
Oct.	31	" "	219	1,444 14	
Nov.	1	" "	220	476 00	
	16	" "	231	250 00	
		" Marsh, Coe & V	175	28 00	
		" cash	236	1,384 10	
	20	" M'r's D. Place	174	153 41	
	"	" sundries	178	9,285 50	
	"	" Fifth avenue, corner 47th street	183	100,633 00	
	"	" N. Y. & Nevada M'g Co	182	1,498 00	
	"	" profit and loss, 1865	185	153,050 68	
	"	" interest	185	9,613 65	
	"	" "	183	29,286 78	
	"	" sundries	186	830 00	
					$780,514 26
1867.		C'R.			
June	3	By cash	117	250 00	
July	1	" Allaire Works	137	233 63	
Sept.	2	" cash	175	250 00	
Oct.	12	" "	205	500 00	
Nov.	1	" E. B. Place	173	800 00	
	12	" cash	229	50 00	
		" G. C. Van Usla	179	45 00	
		" profit and loss, 1866	196	25,434 12	
					$27,562 75
1867.		D'R.			
Nov.	20	To am't from folio 3		$780,514 26	
	"	" Barker Place	192	443 72	
	"	" J. K. & E. B. Place	196	4,190 55	
	"	" "	197	4,792 50	
	"	" real estate, Mich	197	455 77	
	26	" cash	237	50 00	
Dec.	2	" "	238	512 40	
	10	" "	239	500 00	
	18	" "	239	2,184 17	
	23	" "	240	55 00	
		" Sparkman, Place & King	200	11,807 50	
491					
1865.					
Dec.	23	To real estate, W. 43d street	200	$8,798 50	
		" Place Sugar Refinery	200	8,750 00	
		" Dr. Henkle	199	11 85	
		" city and co. of N. Y	202	2,155 67	
		" Eph'm B. Place	202	400 00	
					$825,631 89
		C'R.			
Nov.	20	By am't from folio 3		$27,562 75	
"	"	" stock	119	600,000 00	
					$627,562 75

Q. Now produce the account of James D. Sparkman.

A. I produce it, commencing at folio 10 of Ledger C, and continuing to folio 11.

(Printed at fo. 202 as Ex't 11.)

492 Q. 205. If M'r Place, at the end of December, 1866, had been charged with the amount which you say was his proportion of the

losses, what would have been the balance on his account? State on which side it would have been, and the amount.

A. There would have been to his debit $610,605.21.

Q. 206. What does that indicate?

A. It represents the balance of his debit.

Q. 207. Why; on what ground would he appear to have owed that?

A. I suppose because there was not enough to offset the charges against him.

Q. 208. What did the charges against him arise from?

A. They consisted of cash that he had drawn out of the firm, of interest charged to him, and the balance of his debit, after charging him with his proportion of the nominal capital stock, deducting the amount to his credit on the 30th of November?

Q. 209. Had he up to that time been charged with any portion of the amount expended on 5th avenue property?

A. No, sir; not in this account.

Q. 210. Anywhere?

A. He had been charged in an account headed "Fifth avenue, corner of West 47th street, James K. Place."

Q. 211. Why do you say he had been charged in that account? And, if it is so, state where.

A. Because it is an account representing an investment on his account; it is found on folio 86 of the ledger.

Q. 212. Adding the amount charged on that Fifth avenue account to the other amount which should have been to his debit on the 31st of December, 1866, how much did he owe the concern? In answering the question, state the amount which then stood to the debit of that account.

A. I don't know how much he owed the concern then.

Q. 213. Was the debit false or true?

493 A. The debit is true.

Q. 214. Then it is true he owed the concern six hundred and ten thousand and odd dollars, didn't he? That is, he was bound to pay it, as you understood it, wasn't he?

A. I didn't know anything about what his agreement was.

Q. 215. When you read books of account, do they convey any ideas to your mind?

A. Yes.

Q. 216. Then, if you find that the sum of $610,605.21 stands to the debit of a partner on the books of a concern, do you or not believe that he is bound to pay that sum in?

A. It depends altogether upon circumstances.

Q. 217. What circumstances?

A. I would not form my opinions from one account; I would inquire as to how the indebtedness arose.

Q. 18. Suppose you knew that by the articles of partnership he had agreed to pay in $600,000, and you found the books corresponding with that agreement in charging him with that and $10,000 besides, would or would not that convey to your mind the idea that he owed $610,000, and had agreed to contribute $600,000?

A. If it was simply the agreement, I should not consider that he owed it, but that he had agreed to contribute it.

Q. 219. Do you not consider a man as owing what he agrees to contribute?

A. I should not say that he "owed."

Q. 220. Then that account never conveyed to your mind the idea that he owed anything to the concern?

A. I never thought of it in that connection.

Q. 221. Is that owing to a defect in the constitution of your mind, or to an obscurity in the books? I want you to spot the trouble somehow or other.

A. I should say it was owing to the manner in which they kept their books.

Q. 222. Adding to the amount which should have stood to his debit on the 31st of December, 1866, if the profit and loss account had been closed, the amount which then stood to the debit of the Fifth avenue property, state what amounts the books show to his debit.

A. $672,232.21.

Q. 223. What amount stood to the debit of the Fifth avenue property?

A. $61,627.

Q. 224. If M'r Sparkman, on the 31st of December, 1866, had
494 been charged with the sum which you name as his proportion of the losses of that year, what would have been the effect upon his account?

A. It would have made an amount to his debit.

Q. 225. Of how much?

A. $40,712.35.

Q. 226. Does or does not the last-named sum indicate what he would have to pay into the concern in order to make good the sum of $200,000, which he agreed to contribute; in other words, leaving out the item with which he is debited, $200,000, on the 31st of December, 1865, would there have been anything to his debit, or would there have been anything to his credit; and, if so, what sum?

A. There would have been $159,288.65 to his credit.

Q. 227. What would that sum indicate?

A. That he had that much capital in the firm.

Q. 228. If the item of $600,000, with which James K. Place is charged in his account as his agreed contribution had not been charged to him, he would still have appeared debited with some sum in excess, would he not?

A. Yes, sir.

Q. 229. Does or does not that indicate any interest in the assets of the concern; or how does the interest of a partner in the assets of a concern appear?

A. In this case you would credit back that $600,000 to James K. Place.

Q. 230. And if then there remained a balance to his debit what would that indicate?

A. That he owed the firm that amount of money.

Q. 231. As to his having or not having an interest in the assets after the payment of the debts, what would it indicate?

A. Until he paid that balance I should suppose that he had no interest.

Q. 232. You say that if the two hundred thousand dollars charged to M'r Sparkman had been credited back to him there would have been to his credit about $159,000.

A. Yes, sir.

Q. 233. What would that indicate as to his having or not an interest in the assets of the concern, after the payment of its debts, and the amount of such interest?

A. It would indicate that he had an interest to the amount of about $159,000.

Q. 234. There being then no apparent interest in James K. Place

after payment of the debts, and there being an apparent interest in James D. Sparkman to the extent of $159,000, does or does not
495 the last-mentioned sum indicate the apparent surplus of the firm above its debts?

A. I should say that it did.

Q. 235. According to the indications of the books what do you say was the surplus of the firm after payment of its debts, on the 31st December, 1866, and to whom did that surplus belong?

A. According to the figures that I have here, the surplus was about $159,000, and belonged to James D. Sparkman.

Q. 236. Does or does not that correspond with your understanding of the situation of the firm at the time?

A. I don't think that I made any such calculation at the time referred to.

Q. 237. Well, how close was your calculation as to ascertaining the interests of the respective partners?

A. I don't think I made any.

Q. 238. Did you not know that the losses of the firm, as far as ascertained, was the amount you stated subject to correction if any error was discovered?

A. I knew that the books represented it to be so.

Q. 239. Did you not believe it to be so, unless some error should be discovered?

A. Yes, sir.

Q. 240. Did you not understand and consider the effect of that on the accounts of the several partners?

A. Of course I must have thought it reduced their capital so much.

Q. 241. Did you not understand the extent to which it reduced their capital and their respective interests?

A. I knew that it reduced James K. Place's capital three-quarters of the amount of the losses, and Sparkman's one-quarter.

Q. 242. Did you not know at the time the result in figures on the respective accounts?

A. I may have done so, but I don't recollect now.

Q. 243. Is there any place on the books where the assets and debts of the firm existing on the 31st December, 1866, as shown by the books in their then condition, were collected together? And, if so, produce it.

A. I think they are embraced in the trial-balance of the 31st December, 1866, found on Journal A, of James K. Place & Co., commencing at folio 98 and continuing to folio 107, as follows:

(Printed as Ex. 12, fo. 211.)

496 Q. 244. In which column are the assets, and in which the debts?

A. The assets are in the column on the left, and the liabilities in that on the right.

Q. 245. Does the item among the assets, of "merchandise, $812,062.74," actually represent property in the possession of or under the control of the concern?

A. No, sir.

Q. 246. You observe the next item, "merchandise for inven-
497 tory, $894,594.58;" had not that item been actually transferred to the credit of profit and loss account on the ledger?

A. Yes, sir.

Q. 247. Observe the item among the liabilities of the concern, as follows: "Profit and loss, 1866, $696,785.95," and say whether or not the

item of "merchandise for inventory, $894.594.58," had not been extinguished in getting at the balance of $606,785.95 credited to "profit and loss, 1866."

A. I should not say that it had been extinguished; it had been carried to the credit of "profit and loss."

Q. 248. It had been merged in another account?

A. Yes.

Q. 249. Was there or not any such balance standing on the books as $864,000?

A. Yes, sir; that balance stood to the debit of merchandise account.

Q. 250. Then, when you find on the ledger and in the account "profit and loss, 1866," that account credited "by merchandise, $893,594.58," is there in fact any corresponding entry on the merchandise account as it stands on the ledger?

A. There is a corresponding entry charged on 31 December, 1866.

Q. 251. Had not the balance—the item which stands in the trial-balance, "merchandise, $812,062.74"—been extinguished by being placed to one side or other of the "profit and loss account, 1866?"

A. It would have been if the entries had all been completed at that time.

Q. 252. Will you strike out from the assets appearing on that trial-balance any items which you don't consider as representing actual property or investments of the concern? Name the particular items and state the aggregate.

A.

	James K. Place, loan account	$5,732 00
	James K. Place	457,554 53
	Merchandise	812,062 74
	5th ave. property, corner 47th st., James K. Place	61,627 00
	Real estate, 132 Front st., Ja's K. Place	120,000 00
	Humboldt Insurance Company, Ja's K. Place	1,400 00
	Allaire Works, James K. and Ephraim B. Place.	4,484 50
498	New York and Nevada Mining Co	3,633 00
	Metropolitan National Bank stock, James K. and E. B. Place	5,978 00
	Corn Exchange Insurance Co., James K. Place	4,657 00
	U. S. 7 3-10 bonds, James D. Sparkman	40,132 18
	Lots on 43d street	16,210 00
	Susquehanna Seminary	14,229 00
	The aggregate is	$1,547,699 95

Q. 253. Deducting that aggregate, what would the assets of the firm be reduced to according to the trial balance?

A. $3,375,146.42.

Q. 254. Your attention is called to the items appearing among the liabilities of the concern, "profit and loss, 1861," "profit and loss, 1866," "profit and loss, 1860," "profit and loss, 1858," "profit and loss, 1859," and state whether or not those are nominal accounts, and who were the parties actually interested therein.

A. They are all nominal accounts; for 1866, James K. Place and James D. Sparkman are interested; for the others, James K. Place, Ephraim B. Place, and James D. Sparkman.

Q. 255. Do they or do they not actually represent an indebtedness of the firm, as a firm, to outsiders?

A. I should say they did not.

Q. 255. In determining the actual liabilities of the concern, for the purpose of determining what they had to pay before dividing anything among themselves, would you or not take these items into account?

A. I should not.

Q. 259. Will you please deduct from the liabilities appearing on the trial-balance the several items which do not represent actual liabilities of the firm, and say what those items are in detail; and what is the aggregate of them; and what is the aggregate of the liabilities after that deduction?

A. Premium on specie, $370,441.83.

Q. 258. State why you deduct that.

A. Because it is a nominal account.

Q. 259. Explain it fully.

A. We kept an account on our books under heading "premium on specie," and made journal entries and cash entries to the debit and
499 credit of that account; the items to the debit of the account represent the premium paid on gold bought, and the charges incurred in borrowing gold; the credit side represents the amount of premium received on sales of gold; for instance, if you sell $10,000 gold, you get $2,500; it represents that—it represents the premium.

Q. 260. The items credited to the account represent the premium received on sales or loans of gold?

A. With the exception of the journal entry, "by merchandise," and the entry on the journal, page 96, which is as follows: "Merchandise to premium on specie, for balance latter account, $1,567,854.19," which item represents the premium on the amount of merchandise bought for gold and sold for currency.

Q. 261. Then does it not represent the difference between the gold value of the merchandise and its currency value?

A. Let me explain: Take a bale of goods amounting to $10,000 in gold; as, for instance, when they sold that coffee; we will say they sold it for currency; they would have, say, $15,000 of currency that they received for the coffee, and they would owe the man that they bought it of in gold; the plan was that when that coffee was sold for currency an equivalent amount of gold was bought in, and the premium that was paid was charged in here to this "premium on gold" account, and the gold was held on hand as so much cash; if there was any other transaction where they bought goods payable in currency, they sold gold so as to reduce that currency to the gold basis; that was the reason that this account was kept; that balance here of $1,569,854.19 shows the amount of premium that is to be charged to merchandise account for goods sold in in currency, which had been bought and paid for in gold.

Q. 262. The item which, on the trial balance, stands to the credit of premium on specie is a mere nominal account, is it not?

A. Yes, sir.

Q. 563. What are the nominal accounts in book-keeping?

A. Interest, expense, merchandise, storage, insurance, brokerage, and in those books premium on specie and United States taxes.

Q. 264. The accounts which indicate outgo not returned, and
500 which are a drain upon the concern, are generally considered, nominal, are they not—they are charges on the profits of the concern, are they not?

A. Not all of these; but interest and expense, insurance and storage, accounts of that character would be; merchandise may result in a profit, so may the premium on specie.

Q. 265. Is it not customary to close all the nominal accounts by crediting and debiting the profit and loss account?

A. Yes, sir.

Q. 266. If there is a balance to the credit of a nominal account, how is it closed?

A. Pass it to profit and loss.

Q. 267. Debit profit and loss?

A. If it was to the debit of the account you were going to close.

Q. 268. If it was to the credit of the account you were going to close?

A. To the credit of profit and loss.

Q. 269. How should the account of "premium on specie" be closed?

A. You could not very well close that until the accounts had all been collected, and all paid—all that was due had been collected, and all that were owing had been paid.

Q. 270. Does that item to the credit of "premium on specie" represent an actual liability of the concern—a sum of money which they were called upon to pay?

A. I should say not.

Q. 271. Then it was not an actual debt of the concern?

A. No, sir; it merely represented the premium on gold, which they were short of—gold that they borrowed; the amount of currency they would have had to spend to buy the gold that they were under contract for or were liable for in some form.

Q. 272. Then the item of $344,000 represents an expenditure which, as their affairs then stood, they would have to make in order to return gold for which they were liable, or obtain gold which their necessities would require?

A. I should say that it would not require any expenditure, for the reason that this was gold that they had borrowed without depositing currency or collaterals as security.

Q. 273. Where they had borrowed gold and given security in currency does not the transaction appear in the trial-balance, in the form of a credit in red, to the party from whom they had borrowed the gold,
501 and a debit in black, for the currency which they had deposited?

A. Yes, sir.

Q. 274. Where they had loaned gold and taken currency as security does not the gold appear in red to the debit of the party to whom they loaned it, and the currency in black to the credit of the party to whom they loaned it?

A. Yes, sir.

Q. 275. Is that the explanation of the entries partly in red and partly in black?

A. In reference to those, yes.

Q. 276. Then, irrespective of the item which stands to the credit of the account "premium on specie," do not the loans and borrowings of gold existing on the 31st December, 1866, appear on the trial-balance?

A. I should say that they did.

Q. 277. The item to the credit of the account "premium on specie" represents something independent of the loans and borrowings of gold which appear on the trial-balance, does it not?

A. No; I should not say it was independent of them, but it had something to do with the final closing of all the accounts.

Q. 278. Did it not represent, or approximately represent, what they would have to pay in order to adjust their gold liabilities? The trial-balance, for instance, makes them d btor to Given, Jones & Co. (in black) $133,000, and creditor (in red ink) $100,000; what kind of transaction does that indicate?

A. It indicates that they had borrowed $100,000, gold, from Given, Jones & Co., and given them their security, $133,000, in currency.

Q. 279. Would that transaction appear on the account of "premium on specie," or any similar transaction?

A. No, sir.

Q. 280. Then the account, "premium on specie," is made up of items of a different character?

A. Yes, a different character to that, but it has reference to borrowing gold.

Q. 281. What kind of reference?

A. As appears by the books here they were borrowing $1,125,551.00 in gold. In order to adjust the books in currency, the premium on that amount in gold, at 33 per cent., was charged to merchandize and credited to "premium on specie," merely to adjust the books in currency.

Q. 282. That amount, then, that they would have to realize from
502 merchandize, over and above that value in gold—that premium went to pay back the gold—is that what it means?

A. Yes, sir.

Q. 283. That is, the merchandise account ought to owe them enough to put that item to the credit of "premium on specie?"

A. It had already been charged to the merchandise account.

Q. 284. Because the merchandise account owed it or was accountable for it?

A. Yes, sir.

Q. 285. It was accountable to the firm for that much—for the amount of money which it ought to yield in order to enable them to pay the premiums on specie for which they were liable?

A. Yes, sir.

Q. What other items do you deduct from the list of liabilities of the firm as being mere nominal amounts?

A. I will deduct stock	$800,000 00
Profit and loss, 1865	3,783 99
" " 1861	101 75
" " 1866	603,785 95
" " 1860	30 00
" " 1858	350 00
" " 1829	142 93
E. B. P., bond and m'tg	78,600 00
J. P. Giraud, j'r, ex'r	41,400 00
James D. Sparkman	10,305 55
The aggregate of the items which I would thus deduct, independent of the item to the credit of "premium on specie," is	$1,541,500 17

Q. 287. Deducting that aggregate from the aggregate of liabilities appearing in the trial-balance, what would be the real amount of the liabilities of the firm on the 31st December, 1866?

A. $3,381,098.64.

Q. 288. In that view, what would be the excess of assets over liabilities, or liabilities over assets, exclusive of the item on the account of "premium on specie?"

A. About $6,000, liabilities over assets.

Q. 289. Would that assume or not that everything put down as an asset was worth its face?

503 A. That would assume that everything put down as an asset was worth the figures given here.

Q. 290. Deducting the amount which stood to the credit of "premium on specie" from the liabilities, what was the excess of assets above liabilities?

A. About $376,000.

Q. 291. Did you, or did any member of the firm, or any one connected with it ever suppose or believe that on the 31st day of December, 1866, that was the true condition of the firm?

A. I never thought anything about it—that is, as regards these figures.

Q. 292. I ask, if you supposed that the concern was worth $350,000 above its debts?

A. I don't think I ever estimated it at that time.

Q. 293. If the item which stands to the credit of "premium on specie" does represent a liability of the concern, what was the amount of M'r Sparkman's interest in the concern at that date?

A. If these figures are correct the deficiency would be about $6,000, which would represent the surplus of the concern's liabilities above its assets.

Q. 294. Adding the Fifth avenue property as an asset of the concern, what would the surplus be?

A. Based upon the same figuring it would be about $67,000; adding the amount to the debit of the 43d street lots it would be $84,000; adding the amount to the debit of the United States 7-30 bonds it would be about $124,000; and adding the amount to the debit of the Corn Exchange Insurance Company it would be about $128,500; and adding the amount to the debit of James K. Place loan-account it would be about $133,000; and adding the amount to the debit of the Humboldt Insurance Company it would be $134,000; adding the amount to the debit of the Allaire Works it would be about $139,000; adding the amount to the debit of the New York and Nevada Mining Company it would be about $142,500; adding the amount to the debit of the Metropolitan Bank stock, $148,000; and adding the amount to the debit of the Susquehanna Seminary it would be $162,700.

Q. 295. Could M'r Sparkman's interest in the assets of the concern, after payment of its debts, be made to amount to any such sum
504 as $160,000, without treating as assets the items which you have last above enumerated?

A. It would seem not, by those figures.

Q. 296. Are there any items standing on the debit side of the trial-balance which are, in fact, worthless, in addition to those you have enumerated? If so, indicate them.

A. You mean worthless at that time?

Q. 297. Yes.

A. I don't see any.

Q. 298. Did the firm ever realize anything from the item which stands to the debit of Place and Turlay, special No. 2, $32,500.50?

A. I have not seen any as yet.

Q. 299. What became of that investment?

A. I presume it is lost.

Q. 300. Did the firm ever realize anything from the item "joint account with T. M. Turlay," $112.42?

A. That is offset by a corresponding credit to the Grand Trunk Railway.

Q. 301. Did the firm ever realize anything from the item "importation of coffee *1 ex Frances Milly, from Colombo, Ceylon, $7,762.57?"

A. Yes; something.

Q. 302. How much did they lose on the whole importation?

A. $4,736.

Q. 303. Did they ever realize anything from the item "importation coffee No. 1, ex. Frances Milly, from Colombo, Ceylon, $4,124.98," (in black ink?)

A. Yes; something.

Q. 304. What was the result of it?

A. Lost the whole amount.

Q. 305. Did they ever realize anything from the item "importation Java coffee, No. 1, ex Dunmore, from Padang," (in red ink?)

A. Yes; about $20,000.

Q. 306. As to the two items "importation of coffee, ex Frances Milly," were there any transactions after the 31st December, 1866, which diminished the balance to the debit of these accounts, except to transfers to "profit and loss?"

A. Yes, sir; the coffee imported was sold, and diminished the balance to $4,736,47; that was the amount of the loss.

Q. 307. Did the concern ever realize anything from the item "disbursements in Washington, $1,839.90?"

A. No, sir; it was in fact a nominal account, and not an asset of the concern.

Q. 308. Should or should it not be deducted from the list of assets?

A. It should.

Q. 309. Did the concern ever realize anything from the ac-
505 count "joint account with Place and Turlay, No. 3, $3,603.25?"

A. I don't know.

Q. 310. Look at Journal A, under date November 20, 1867, or thereabouts, and see if you can produce any entry relating to property in Fifth avenue, corner of Forty-seventh street.

A. Yes, sir; on folio 182 of journal, "James K. Place to Fifth avenue, corner West Forty-seventh street, for balance account, $100,633."

Q. 311. In whose handwriting is that entry?

A. In the handwriting of John B. Morgan.

Q. 312. Did you know anything about the making of the entry at the time?

A. I don't think I did.

Q. 313. See if you can produce any entry relating to the property on West Forty-third street?

A. On page 180 I find one, as follows: "Sundries, to lots West Forty-third street. Real estate West Forty-third street, J. K. Place for half account $19,298 50
Real estate West Forty-third street, James D. Sparkman for half account. 19,298 50

$38,597 00

Q. 314. Produce the corresponding ledger entries.

A. I produce them on pages 66 and 67 of the ledger, as follows:

EXHIBIT 38.

Real estate West Forty-third street.—J. K. Place.

1867. D'R.
To lots West Forty-third street, 180..... $19,298 50

$19,298 50

1867.	C'R.
By Susan A. Place, 200	$10,500 00
" James K. Place, "	8,798 50
	$19,298 50

EXHIBIT 39.—(From ledger, p. 67.)

Real estate West Forty-third street.—J. D. Sparkman.

1867.	D'R.
Lots West Forty-third street, 180	$19,298 50

Q. 315. In whose handwriting are the journal entries just read?

A. I should say that of G. S. Keyes, who was assistant book-keeper to James K. Place & Co.

506 Q. 316. In whose handwriting are the entries on the ledger, page 66?

A. The heading of the account and the entry on the debit side are in his handwriting also; the entries on the credit side are in my handwriting; the account on page 67 of the ledger is also in Keyes' handwriting.

Q. 317. When were the entries on page 66, in your handwriting, made?

A. I do not remember exactly; but I think some time in the year 1868.

Q. 318. Produce the corresponding journal entries.

A. I produce them on folio 200 of the journal, "New York, December, 1867," as follows:

Sundries, to real estate, West Forty-third street. (J. K. P.)

Susan A. Place, for property transferred to H. Wallis, August 1st, 1877	$10,500 00
James K. Place, for balance account	8,798 50
	$19,298 50

Q. 319. How came you to make these entries?

A. I think they were made at the request of the committee appointed at the creditors' meeting.

Q. 320. Who was that committee?

A. O. W. F. Randolph, J. E. Johnson, and C. M. Taylor.

Q. 321. Which one of them asked you to make that entry?

A. I don't think they asked me to make that entry particularly, but they asked me to make entries.

Q. 322. State what they asked you.

A. They asked me to make entries in pencil so as to show how the books stood; as they were then, the books were very much incomplete—that is, at the time the committee were appointed.

Q. 323. If they, or either of them, said anything to you concerning lots on West Forty-third street, repeat what they or either of them said.

A. They didn't say anything to me about any particular account; it was general.

Q. 324. Why, then, did you make that entry?

A. I think I made it in pencil.

Q. 325. I am speaking of that entry that you just read; it is in ink.

A. I made that of my own accord with the others, supposing it was proper in order to have the books in shape.

507 Q. 326. What transactions did you know of that made you think that entry proper?

A. I didn't know of any transaction except information that I had had.

Q. 327. State what information did you have.

A. That this property had been transferred to M'r's Place on 1st of August, 1867.

Q. 328. Who gave you that information?

A. I think it was James K. Place.

Q. 329. When?

A. Some time in the latter part of the summer of '67.

Q. 330. At the time of making the entry were you acting as Place's assignee?

A. Yes.

Q. 331. Was it in that capacity that you had possession and control of the books?

A. Yes; I presume it was.

Q. 332. Look at this check, which reads: "New York, 19th of November, 1867. Metropolitan National Bank pay to the order of Fisk & Hatch ninety-nine thousand five hundred and fifty-three 12-100 dollars. James K. Place & Co., by L. W. Burritt, j'r. ($99,553 12-100.") (Stamped on the face:) "Certified. August, teller. November 19, Metropolitan National Bank." (Endorsed:) "Fisk & Hatch," and state in whose handwriting the filling up and endorsement of that check are.

A. The filling up and signature is in my handwriting; the endorsement I don't know; it purports to be Fisk & Hatch.

Q. 333. Was or was not that check actually delivered and paid?

A. I think it was delivered and paid to Fisk & Hatch.

Q. 334. What was it given for?

A. For about $92,000 in five-twenty bonds, I think.

Q. 335. To whom, if to any one, did you deliver these bonds?

A. A portion of them were delivered to Von Hoffman & Co., or delivered in their office, I think, by myself, and a portion of them to Daniel S't Amant, or delivered at his office; I think that was done by John B. Morgan.

Q. 336. Did you receive from Von Hoffman & Co., or S't Amant, or Morgan, anything in return?

A. I received from Von Hoffman in return a corresponding amount of either seven-thirties or five-twenties, I don't remember which.

Q. 337. Did you keep any record of the numbers of the bonds you received from Von Hoffman & Company, S't Amant, or Morgan?

508 A. I didn't keep any record of those that I received at that time, but I had a record of the others.

Q. 338. Made when—at the time of delivering to Von Hoffman?

A. Yes, sir; I think I took a memorandum of the numbers on a small piece of paper—that is, I mean of the bonds which they had before I went with those 5-20's to exchange.

Q. 339. On what terms had they had these 5-50's or 7.30's originally?

A. Those were held by them as collateral for a loan of gold to James K. Place & Co.

Q. 340. What was the date of that transaction?

A. As appears by the books, the 14th of November, 1867.

Q. 341. To what entries do you refer?

A. I refer to a credit to them of a loan of $35,000 in gold.

Q. 342. In whose handwriting is that entry?

A. Here it is in the handwriting of John B. Morgan.

Q. 343. Where is the original of it?

A. The original entry is on the blotter cash-book under date 14th November, 1867, in my handwriting, as follows, on the credit side: "L. Von Hoffman & Co. Interest 7 per cent. gold. $47,000 U. S. 7.30's as collateral. $47,000."

Q. 344. Where is the transaction with S't Amant entered?

A. On folio 141 of the loan-book, in the handwriting of G. S. Keyes and John B. Morgan, under date of March 6th, 1867: "By cash, $25,000." Nov. 13th, 1867: "By cash, $10,000," (in red ink.) The entry in the blotter cash-book, under date March 6th, 1867, is in my handwriting, in red ink, as follows: "D. S't Amant, on call, one day' notice, securities as collateral; see our letter of the 6th inst. Interest, 7 per cent. $25,000," on the credit side. The entry under date 13th November is in my handwriting, in red ink, and is as follows: "D. S't Amant, interest gold, 7 per cent., $15,000—U. S. 5-20's, 1867, as collateral, $10,000."

Q. 345. What collaterals did S't Amant have besides 5-20's?

A. I think he had 50 shares of the Metropolitan Bank stock.

Q. 356. When you bought the 5-20's with the check that has been produced, and those were left with S't Amant or Von Hoffman, what became of the Metropolitan Bank stock?

A. I don't know.

509 Q. 347. Have you ever heard anything about it since?

A. I have heard that it went to Gibson, Beadleston & Co. I have never been able to get it.

Q. 348. How was the indebtedness of Daniel S't Amant and Von Hoffman and Company, to which you have testified, settled, if it ever was?

A. As I have been informed by M'r H. N. Titus, the debts in gold due Daniel S't Amant and L. Von Hoffmann & Co. were paid by Gibson, Beadleston & Co., they reciving from Daniel S't Amant and Von Hoffmann & Co. the securities that they had as collaterals; those securities, I have understood, have been sold, and Gibson, Beadleston & Co. bought the gold to re-imburse them with the proceeds of those securities.

Q. 349. Can you now give the numbers and description of the securities which came back to James K. Place & Co. on the 19th of November?

A. I can, from a memorandum of mine, made by myself: There were $35,000 U. S. 7.30 bonds, second series, Nos. 75137 to 75171, inclusive; $26,000 U. S. 7.30's, second series, Nos. 75207 to 75232, inclusive; $10,000 U. S. 7.30's, second series, Nos. 54235 to 54244, inclusive; $2,000 U. S. 7.30's, second series, Nos. 15486 and 17487, inclusive; $14,000 U. S. 5.20 bonds, known as '67's, Nos. 24399 to 24412, inclusive; $5,000 U. S. 5.20's, known as '67's, Nos. 23494 to 23498, inclusive; $26,000 U. S. 7.30's, second series, Nos. 75207 to 75532, inclusive.

Q. 350. On or after the 19th of November, 1867, did the firm of James K. Place & Co., or you, or Thomas T. Sheffield, as their assignee, receive any money from those securities?

A. I never have; the others I don't know.

Q. 351. Do you know of any entry upon the books showing the sale or other disposition of these securities on or after the 19th of November, 1867?

A. Here is an entry under date the 26th of November, on the credit side of the cash-book, as follows: "U. S. 5-20 bonds; proceeds of sale of $47,000, through Gibson, Beadleston & Co., $50,564."

Q. 352. Are these the securities which came back from Von Hoffman and S't Amant on the 19th of November?

A. I should say not.

Q. 353. I am speaking of the securities which came back from
510 these parties on the 19th of November; is there any entry on the books, so far as you know, showing any sale or disposition of them or any of them?

A. No, sir; not that I know of.

Q. 354. Besides the loans from Von Hoffman & Company on these last-mentioned securities, had J. K. Place & Co. ever obtained any money on the security of them from any, and what, other persons or firms?

A. I think they had borrowed exchange from Brown Brothers & Company.

Q. 355. When, as near as you can state?

A. My impression is now that it was some time during the early part of the summer of 1867—the spring, say.

Q. 356. Before that, had James K. Place & Co. ever used them to borrow money upon; and, if so, from whom, and to what amount?

A. They may have done so, but I don't recollect now.

Q. 357. Who acted for James K. Place & Co. in obtaining the loan that you have testified to?

A. I think I did, with Brown Brothers & Co.

Q. 358. What property is represented by the item on the trial-balance of J. K. & E. B. Place, November, 1865, United States 7.30 bonds, $94,243 95?

A. United States 7-30 bonds that the firm of J. K. & E. B. Place had bought, I believe.

Q. 359. Were any of the securities received from Von Hoffman and S't Amant on the 19th of November, 1867, among the securities referred to in that item?

A. I think they were; Nos. 75,207 to 75,232 may have been a portion of them.

Q. 360. Were those numbered 24,399 to 24,412 embraced in it?

A. No.

Q. 361. When did these last-mentioned fourteen come into the possession of James K. Place & Co.?

A. I think they were the result of a conversion of fourteen thousand 7-30's of the first series converted into 5-20's.

Q. 362. Did these fourteen converted 7-30's constitute a part of that item of $94,243.95?

A. They may have.

Q. 363. What is your recollection?

A. I think more than likely they did.

Q. 364. (Question repeated.)

A. I could not say positively.

Q. 365. State the numbers and particulars of the securities referred to in the item on the trial-balance, "James K. Place & Co., 31 De-
511 cember, 1866, United States 7-30 bonds, J. D. Sparkman, $40."

A. 26 United States 7-30's, second series, Nos. 75,207 to 75,232, inclusive, and 14 United States 7-30's, of the first series issued, Nos. 118,478 to 118,481, inclusive, and Nos. 116,167 to 116,176, inclusive.

Q. 366. What became of the last fourteen?

A. They were converted into 5-20's, 1867, numbered 24,399 to 24,412, inclusive.

Q. 367. Who made that conversion?

A. I think I did.

Q. 368. Then the 7-30's numbered 75,207 to 75,232 inclusive, and those numbered 118,478 to 118,471 inclusive, and 116,167 to 116,176, or the substitutes for the latter, were among the securities which the firm re-

ceived from Von Hoffman & Co., and S't Amant, on the 19th of November, 1867?

A. Yes, sir.

Q. 369. Will you produce the ledger entries relating to those securities which are mentioned in the trial-balance of J. K. & E. B. Place and James K. Place & Co.?

A. I produce them at page 108 of the ledger, as follows: (Printed at fo. 242 to 246.)

512 Q. 370. In whose handwriting is the entry under date of November 20, 1867, "By J. D. Sparkman, $40,800?"

A. In the handwriting of John B. Morgan.

Q. 371. Produce the journal entry corresponding to that last ledger entry.

A. I produce it at page 182 of the journal, in the handwriting of John B. Morgan, as follows: "James D. Sparkman. To sundries: U. S 7 30 bonds, J. D. S.—for balance account, $40,800. U. S. Watch Co., do. 1,102.53. Marion Building Co., do. 1,102.53." The next

513 entry on the journal is as follows: "James K. Place, to Fifth avenue, corner West Forty-seventh street, for balance account, $100,633."

Q. 372. When did James K. Place & Co. suspend payment?

A. On the 20th November, 1867.

Q. 373. Is it within your knowledge that the forty Government securities above mentioned as embraced in those received from Von Hoffman & Co., and S't Amant, on the 19th of November, 1867, were or were not delivered to James D. Sparkman on the 19th or 20th of November, 1867?

A. It is not within my knowledge.

Q. 374. After you became assignee for James K. Place & Company, did you obtain any information as to whether they had or had not been delivered to James D. Sparkman?

A. No, sir.

Q. 375. At the time of making the entries in the journal, relating to the Fifth avenue property and the Government securities in November, 1867, was anything in progress towards writing up the books of the firm; and, if so, what?

A. I think M'r William H. Gibson was taking an account of the stock, and I was taking steps to take off a trial-balance so as to ascertain the result of the business, but no entries were made on the books—I think not—from my recollection of it.

Q. 376. Was it customary at that season of the year to make an inventory or trial-balance? And, if so, state in what previous year, at that season, any such thing was done.

A. I don't remember whether they ever did anything of that kind before or not.

Q. 377. What led to its being done on this occasion?

A. I don't know what led M'r Place to ask it to be done.

Q. 378. Did J. K. Place & Co. have any dealings with the firm of Pottier & Stymus? And, if so, state their nature.

A. None that I know of.

Q. 379. Had they, so far as you know, any dealings with a man named P. Puels?

A. Not that I know of.

Q. 380. Do you know of any such firm as Pottier & Stymus, and what was their business?

A. I think I have seen the sign in Broadway, but I could not say what their business is.

Q. 381. Had they any dealings with the firm of Wood Bro's, so far as you know?

A. No, sir; not that I know of.

514 Q. 382. Had they any dealings with John Mack?

A. No, sir.

Q. 383. Had they any dealings, so far as you know, with E. V. Haughwout & Co.?

A. No, sir.

Q. 384. Look at the check now produced and shown you, as follows: "New York, May 25, 1857. The National Park Bank pay to the order of Pottier & Stymus twenty-five hundred dollars. $2,500. James K. Place & Co., by L. W. Burritt, j'r, att'y," and say in whose handwriting is the filling up and signature of that check?

A. In mine.

Q. 385. What was it given for?

A. I don't know.

Q. 386. In whose handwriting is it entered in the check-book?

A. In my handwriting.

Q. 387. What was the entry?

A. Ja's K. Place loan ac., pay Pottier & Stymus, May 25, $2,500.

Q. 388. To what account in the ledger was that charged?

A. It seems to be charged on the loan-book to James K. Place's loan account.

Q. 389. At what page?

A. Under date of the 25th of May, 1857, at folio 2.

Q. 390. Of the loan-book, page 2?

A. Of the loan-book, being the account as follows:

EXHIBIT 40.

James K. Place, loan ac.

1865.		D'R.			
Jan.	1	To amount from L. book B	151	14,012 66	
Feb.	9	cash	114	977 78	
May	5	"	160	1,230 56	
	15	"	169	7 30	
	20	"	174	9 45	
	"	"	"	8 55	
June	10	"	192	1,480 00	
July	6	"	207	9 20	
	29	"	223	2,419 44	
Aug.	1	"	225	1,000 00	
	18	"	237	3,000 00	
	22	"	239	35 25	
	28	"	243	23 30	
Sept.	16	"	257	1,000 00	
	"	"	258	17 80	
	20	"	259	26 00	
	22	"	261	131 20	
	23	"	262	200 00	
	26	"	264	50 54	
	28	"	265	6 87	
Oct.	26	"	284	156 00	
	27	"	285	16 30	
515					
Nov.	30	To amount .o fol. 133	.....	$1,447 30	
	"	interest	241	329 09	
					$27,594 48

EXHIBIT 40—Continued.

1865.	C'R.			
Jan. 31	By amount t: Ledger C.	2	10,000 00	
March 7	cash	126	100 00	
Aug. 1	"	225	1,447 30	
Nov. 30	amount to fol. 133		10,424 68	
	Balance		5,622 50	
				$27,594 48
1865.	D'R.			
Nov. 30	To balance		5,622 50	
1866.				
May 22	cas':	115	300 00	
23	"	116	250 00	
Oct. 29	"	247	41 60	
Dec. 31	interest	83	423 90	
				$6,638 00
1866.	C'R.			
June 11	By cash	133	550 00	
Sept. 26	"	213	356 00	
Dec. 31	Balance		5,732 00	
				$6,638 00
1866.	D'R.			
Dec. 31	To balance		5,732 00	
1867.				
April 2	cash	74	5,000 00	
12	"	80	47 83	
27	"	89	5,000 00	
May 25	"	112	2,500 00	
June 14	"	124	1,507 60	
29	"	134	3,000 00	
July 27	"	152	1,500 00	
29	"	"	3,000 00	
30	"	153	1,635 93	
Aug. 29	"	172	1,635 93	
	E. Mooney 2 Jan	174	1,500 00	
	" " 15 Jan	"	1,000 00	
Nov. 19	cash	233	1,500 00	
Nov. 20	interest	172	1,172 66	
				$35,731 95
1867.	C'R.			
Jan. 22	By cash	17	1,500 00	
Mar. 15	"	64	1,000 00	
Nov. 20	" Bal. to fol. 3		33,231 95	
				$35,731 95
1867.	D'R.			
	Nov. 20. To bal. from fol. 21		33,231 95	

516 Q. 391. Look at the checks now produced and shown to you as follows: "New York, April 2, 1867. Metropolitan National Bank pay Pottier & Stymus five thousand dollars. $5,000. Ja's K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, April 26, 1867. Metropolitan National Bank pay to the order of Pottier & Stymus five thousand dollars. $5,000. Ja's K. Place & Co., by L. W. Burritt, j'r, att'y," and state in whose handwriting are the filling up and signature of those checks?

A. In my own.

Q. 392. State what they were given for, and in whose handwriting are the entries in the check-book, and whereabouts, if anywhere, in the ledger they are charged?

A. I don't know what they were given for; the entries in the check-book are in my handwriting, and read as follows: "James K. Place, loan ac., paid Pottier & Stymus, April 2, $5,000." "James K. Place, loan ac.

paid Bottier & Stymus, April 27, $5,000." The same accounts are carried to the loan account before referred to.

Q. 393. Look at the check now produced and shown you as follows: "New York, April 30, 1867. The National Bank of Commerce of New York pay to the order of P. Puels ninety-two & 96-100 dollars. $92.96. Ja's K. Place & Co., by L. W. Burritt, j'r, att'y." Also, "New York, 6 June, 1867. Manufacturers' National Bank pay to the order of Wood Brothers two hundred and seventy-eight & 50-100 dollars. $278.50. Ja's K. Place & Co., by L. W. Burritt. j'r att'y," and state in whose handwriting are the filling up and signature of those checks.

A. In my own.

Q. 394. To whom are they entered in the check-book, and to what account, if any, are they charged, and for what were they given, if you can state?

A. I don't know what they were given for; the check dated April 30, on Bank of Commerce—the entry in the check-book is in my handwriting as follows: "J. K. Place paid P. Puels, April 30, $92.96." That on the Manufacturers' Bank, dated 6 June, the check-book, in my handwriting, reads as follows: Ja's K. Place paid Wood Brothers, June 6,
517 $278.50." There does not seem to be any entry of those amounts on the books.

Q. 395. On the ledger?

A. Neither on the ledger nor on the loan-book; they were probably carried to the ticket that was kept of amounts that were drawn out during each month, and then charged up at the end of the month to his account on the ledger.

Q. 396. Did you know a firm of Sparkman, Place & King?

A. Yes, sir.

Q. 397. Had J. K. Place & Co. dealings with that firm?

A. I think they sometimes bought corks of them.

Q. 400. Had they any other dealings?

A. And I believe they invested some money as special capital in the firm.

Q. 401. Did you know that at the time of the investment?

A. I don't know whether I knew it at the time it was made, but I heard of it afterwards.

Q. 402. How long afterwards?

A. That I could not say.

Q. 403. Within a month or a year?

A. It may have been within two or three months.

Q. 404. Look at check now produced and shown to you as follows: "New York, January 9, 1866. Metropolitan National Bank pay to the order of Sparkman, Place & Co. thirty thousand dollars. $30,000. James K. Place & Co.," endorsed "Sparkman, Place & Co.," and state in whose handwriting are the filling up and signature and endorsement of that check.

A. I should say that the filling up and signature was that of James K. Place; and the endorsement I should say was in the handwriting of James D. Sparkman, I have seen James D. Sparkman write, and am familiar with his handwriting; and I believe the endorsement to be in his handwriting.

Q. 405. Will you produce the entries on the books of J. K. Place & Co. relating to that check? Is it rightly dated?

A. I should say that it should have been dated in 1867 instead of 1866, according to the entry in the check-book.

Q. 406. You find the entry in the check-book on January 10, 1867?

A. Yes, sir; in my handwriting, as follows: "Sparkman, Place & Co., per J. K. P., January 10, $30,000."

Q. 407. Trace the entries of that check through the books, and state where you next find it?

A. I next find it in the blotter cash-book under date of January
518 15, 1867, in my handwriting, the following words in pencil: "Sparkman, Place & Co.," and the amount in ink, "$30,000;" I next find it in the cash-book under date of January 10, 1867, I think in the handwriting of G. S. Keyes, reading as follows: "Sparkman, Place & Co., special No. 1, amount invested as special capital as copartnership agreement, $30,000;" I next find it in the ledger, page 47, in the account as follows:

EXHIBIT 41.

Sparkman, Place & Co., (Special No. 1.)

1867.	D'R.	
January 10.—To cash, 6		$30,000
1867.	C'R.	
June 4.—By Sparkman, P. & Co., 185		30,000

Q. 408. What does the entry in that account to the credit, under date of June 4, 1867, of Sparkman, Place & Co, $30,000, mean; what transaction does that refer to?

A. As I understand it, the special capital invested of the firm in Sparkman, Place & Co., was transferred to the joint-stock association of Sparkman, Place & King.

Q. 409. What was received for that investment of $30,000 from Sparkman, Place & King?

A. Some certificates of stock.

Q. 410. In whose name?

A. I don't know that I ever saw a certificate for more than five shares, and that five shares was in the name of James K. Place.

Q. 411. When the account of Sparkman, Place & Co., of which the above is a copy, from page 47 of the ledger, was closed by the entry to its credit of $30,000, did that investment then appear on your books?

A. It appeared in the account on the same page under the heading, "Sparkman, Place & King," as follows:

EXHIBIT 42.

Sparkman, Place & King.

1867.	D'R.	
June 4.—To S. P. & Co. t'm 10th Jan'y, 185		30,000 00
Nov. 20.— " interest, 186		1,807 50
		$31,807 50
519	C'R.	
1867.—By Susan A. Place, 200		$19,500 00
" J. K. Place "		11,807 50
Balance		500 00
		$31,807 50
	D'R.	
1867.—To balance		$500 00

Q. 412. In whose handwriting are all the entries in the account of Sparkman, Place & King?

A. In my handwriting.

Q. 413. When were the entries to the credit of that account made, as follows:

1867.

By Susan A. Place, 200	$19,500 00
" James K. Place, "	11,807 50
" Balance "	500 00
	$31,807 50

A. I think some' in the latter part of 1868.

Q. 414. Will you produce the journal-entry corresponding to those ledger-entries to the credit of that account, and state what transactions those journal-entries refer to?

A. I produce the journal-entries at page 200 of the journal, as follows:

47. SUNDRIES.

To Sparkman, Place & King:

4. Susan A. Place, for 195 shares stock, transferred 1st July, 1867, to James T. Sparkman	$19,500 00
4. James K. Place, for balance of acc't, after leaving $500 to debit of the account, which amount represents 5 shares held by J. K. Place	11,807 50
	$31,307 50

Those entries are in my handwriting. It refers to the transfer of 195 shares of stock of Sparkman, Place & King to James T. Sparkman, which is charged to Susan A. Place.

Q. 415. Why was it charged to Susan A. Place?

520 A. I understood from M'r J. K. Place that the stock had been transferred to her.

Q. 416. When did you so understand?

A. I think it was some time either in the month of August or September, 1867.

Q. 417. Then you knew it on the 20th of November, 1867—the 19th or 20th—did you or not?

A. I knew of the fact of his having told me of it; so far as that.

Q. 418. At that time did your books anywhere, and, if anywhere, in what place, show that transaction?

A. They did not.

Q. 419. Did you know a corporation called the Place Sugar Refinery?

A. Yes, sir.

Q. 420. How were you connected with it?

A. I believe my name was used as one of the trustees; and I acted as secretary at the meetings that were held.

Q. 421. Had J. K. Place & Co. transactions with the Place Sugar Refinery?

A. Yes, sir.

Q. 422. Were J. K. Place and James D. Sparkman interested in the Place Sugar Refinery?

A. Yes, sir.

Q. 423. As proprietors, or how?

A. As stockholders. The Place Sugar Refinery also owed them for money loaned to them.

Q. 424. Where is the account on your books, if any, of their interest as stockholders or proprietors?

A. On folio 428 of the ledger, as follows:

EXHIBIT 43.

Place Sugar Refinery stock, J. D. S.

1867.	D'R.
June 4. To Place Sugar Refinery, 174.....	$66,700 00

Place Sugar Refinery stock, J. K. P.

1867.	D'R.
June 4. To Place Sugar Refinery, 174.....	$66,700 00

Q. 425. State what those entries signify.

A. It signifies that there was certificates of stock of the Place Sugar Refinery in the name of James D. Sparkman to the amount of $66,700, and certificates of stock in the Place Sugar Refinery in the name of James K. Place to the amount of $66,700.

Q. 426. What was given for those certificates of stock, and at what date?

A. As I understood, it was received on account of an indebted-
521 ness of the firm of Place and Turlay to the firm of James K. Place & Co.

Q. 427. Where is the entry on the books of its being received—the original entry?

A. There does not seem to be any entry to that effect. It is merely credited to the account of the Place Sugar Refinery.

Q. 428. Where is the original credit on the journal, the entry referring to the receipt of the stock, and where is it credited?

A. On folio 174 of the journal, as follows:

EXHIBIT 44.

1867.		
June 4.	428. Place Sugar Refinery stock, ½ ea., J. D. S. & J. K. P.	
	166. To Place Sugar Refinery, loan account:	
	Ja's K. Place, 667 shares, $100 each.....	$66,700 00
	Ja's D. Sparkman, 667 shares, $100 each.....	66,700 00
	Stock issued in the above names, June 4th, 1867.....	$133,400 00

Q. 429. At that date, what was the indebtedness appearing on the Place Sugar Refinery, loan account, to J. K. Place & Co.? Produce that account at the date of June 4, 1867.

A. I produce the account from the loan-book, at page 165, as follows:

EXHIBIT 45.

The Place Sugar Refinery.—Call loans.

1867.		D'R.			
May	15	To Place & Turlay	131	$225,945 45	
	"	To C. Place	"	67,941 53	
	"	Charges on b'd gold	"	805 48	
	"	Cash	102	439 23	
	21	"	108	3,000 00	
	22	"	109	2,800 00	
June	13	"	123	30,000 00	
	21	"	128	30,000 00	
	22	"	129	20,000 00	
	25	"	130	10,000 00	
	26	"	"	134 00	
July	22	"	148	10,000 00	
	25	"	150	5,000 00	
522					
Aug.	6	Cash	158	$5,000 00	
	1	Real est., Front s't	146	1,083 33	
	24	Cash	169	10,000 00	
	29	"	172	10,000 00	
	31	"	174	1,125 00	
Sept.	2	"	175	10,000 00	
	9	"	179	4,000 00	
	10	"	180	4,000 00	
	12	"	181	2,000 00	
	13	"	183	5,000 00	
	17	"	185	20,000 00	
	26	"	192	5,000 00	
Oct'r	8	"	201	15,000 00	
	11	"	204	10,000 00	
	15	"	206	5,000 00	
	30	M'd'se	166	30,100 00	
Nov.	1	Interest	167	7,047 68	
					$550,421 70
1867.		C'R.			
May	15	By b. r'c'ble	130	$40,000 00	
	20	"	132	25,000 00	
	"	"	"	50,000 00	
	15	Charges on gold	134	180 48	
	22	By cash	109	3,000 00	
	25	"	112	257 00	
June	14	"	124	30,000 00	
	15	"	125	375 00	
	22	"	129	30,000 00	
	26	"	131	10,000 00	
	29	"	132	806 03	
	10	"	139	10,000 00	
	17	"	145	10,000 00	
	26	"	151	1,734 37	
	30	"	153	5,000 00	
Aug.	7	"	158	15,000 00	
		E. B. Place	144	50,000 00	
	28	By cash	171	5,000 00	
Sept.	13	B. r'c'ble	154	20,000 00	
Oct.	9	By cash	202	15,000 00	
	12	"	205	10,000 00	
	16	"	207	5,000 00	
	19	"	210	5,000 00	
	28	"	216	10,000 00	
523	29	"	217	5,000 00	
	31	"	218	5,000 00	
		Balance		189,068 82	
					$550,421 70

EXHIBIT 45.—*The Place Sugar Refinery.—Call loans*—Continued.

1867.	D'R.			
Nov. 1	To balance			$189,068 82
1867.	C'R.			
Nov. 1	By interest	171	$2 22	
	Bal. to fo	167	189,066 60	
				$189,068 82
1867.	D'R.			
Nov. 1	To bal. per acc't rend		$189,066 60	
9	" cash	227	5,000 00	
	" b. pay'le, 25 Jan'y	170	40,687 50	
19	" m'd'se	349	28 65	
	" am't to fo	167*a*	133,400 00	
	" m'd'se	203*b*	8,750 00	
Mar. 9	To bal. sp'c'l acc't rend		17,688 07	
	Brokerage on gold, $570,000		712 53	
Dec'r 24	Notes due, unpaid		10,000 00	
1868.				
Jan'y 15	" "		10,000 00	
April 1	Int., P. & T		1,107 73	
	" "		5,381 68	
	" "		2 22	
	Proceeds sale, bbls. syrup, say 14,960, less paid J. K. Place, $8,750		6,210 00	
1867.				$428,014 95
Nov. 6	By cash	224	$5,000 00	
June 4	" P. S. R. stock	174	133,400 00*a*	
Nov. 19	" cash	233	35,000 00	
20	" P. R. gold loans	185	4,960 00	
"	" m'd'se	190	40,687 50	
"	" "	"	10 00	
	" amount from fo	167*a*	133,400 00	
	" Ja's K. Place	200*b*	4,750 00	
	" "	" *b*	4,000 00	
524				
1868.	C'R.			
April 1	By errors in pt. charged—			
	Place & T., May 15, '67		$2,410 96	
	C. Place, " "		541 53	
	Place Sug'r Ref'y, Nov. 1, '67		7,047 68	
	Balance		56,807 28	
				$428,014 95
1867.	D'R.			
	To am't to fol	166		$133,400 00
1867.	C'R.			
June 4	By Place Sug'r Ref'y stock	166		$133,400 00
1868.				
Ap'l 1	Bal. acc't without chg. co. for syrups			$56,807 28

Q. 431. Besides that account, is there no other account on the books of the Place Sugar Refinery?

A. There is one; Place Sugar Refinery gold loans.

Q. 432. At the time when the checks were given to Pottier & Stymus, which you have produced, and the check to Sparkman, Place & Company, and the stock taken from the Place Sugar Refinery, was or was not that after the period at which James K. Place had used up all his interest in the assets of the concern?

A. I should say it was after, according to the figures on the books here: they may have made profits afterwards that would offset it.

Q. 433. If such profits were made where would they appear?

A. They would not appear on the books; that is, the result of the interest would not.

Q. 434. How would the fact be ascertained?

A. I should not know how to ascertain it myself.

Q. 435. Have you any knowledge of the making of any such profits?

A. No, sir; I have not.

Q. 436. So far as your knowledge extends. then, what is the fact upon the point enquired of, as to whether or not, at the time when the investment was made in Sparkman, Place & Co. and the checks paid
525 Pottier & Stymus, and the stock of the Place Sugar Refinery was taken in the name of James K. Place, James K. Place had any interest in the property of the concern of James K. Place & Co. remaining after the payment of its debts?

A. I should say he had none.

Q. 437. On the 19th of November, 1867, what was your knowledge or information as to the condition of J. K. Place & Co., its profits and losses, and ability to continue its business?

A. I had no knowledge of its profits at that time that I recollect of now.

Q. 439. What knowledge had you of its losses?

A. I knew that they had lost some amount by bad debts.

Q. 439. To what extent?

A. I don't think I know the aggregate of it at that time.

Q. 440. State what you knew as to its ability to continue its business.

A. Until I was informed by M'r James K. Place—I won't be certain whether it was the afternoon of that day or the next morning—I supposed that they would continue right along in their business.

Q. 441. What were you informed by him?

A. That they would have to suspend payment.

Q. 442. Had you any knowledge of their resources and liabilities?

A. I knew what their liabilities were, I presume, at the time; that is, I didn't know the full aggregate of them, but I knew what they were for a month to come.

Q. 443. Did you know their resources?

A. Not fully; no, sir.

Q. 444. When did he inform you that the firm would have to suspend payment?

A. I won't be certain whether it was on the afternoon of the 19th or in the morning of the 20th.

Q. 445. Did he give you any directions, and, if so, what were they?

A. I think, on the morning of the 20th of November, he requested me to go to the Metropolitan Bank and inform the paying-teller or the officers that they would suspend payment, and not to certify to their notes that were due on that day that were presented.

Q. 446. How came you on the previous day to draw a check for $90,000 to Fisk & Hatch, and act in a transaction about securities which you have mentioned?

A. That was by direction of M'r Place.

Q. 447. What directions did he give you?

526 A. He told me to buy the bonds and substitute them for those belonging to M'r's Place and others.

Q. 448. Did you buy with that check any bonds except those which you substituted with Von Hoffman & Co. and S't Amant?

A. I don't remember of any other.

Q. 449. Did you buy any for Lewis W. Burritt?

A. Not with that check; no, sir.

Q. 450. Did you buy any for him?

A. I bought some early in the morning of the 19th of November.

Q. 451. Does that transaction appear on the books?

A. I think not.

Q. 452. Who was Lewis W. Burritt?

A. My father.

Q. 453. What does appear on the books in relation to that transaction That is, produce the entries and state what the transaction was.

A. The check-book of the Metropolitan Bank, in my handwriting, reads as follows: "Lewis W. Burritt, Nov. 18, $3,232.50."

Q. 454. What did you do with that check; did you draw the check?

A. I drew the check, I think.

Q. 455. What did you do with it?

A. I think I sent first to Fisk & Hatch and to Vermilye & Co., and one or two other brokers on Wall street, to enquire the price of 5-20's, as they had been declining, with a view of investing the amount in them to the credit of my father; and I think that I sent the check to Fisk & Hatch by one of the clerks in the employ of James K. Place, and received $3,000 in United States 5-20's of 1867.

Q. 456. Had your firm of James K. Place & Co. previously had transactions with your father; and, if so, was there an account of them upon the books, and will you produce that account?

A. My father sent me money, which I deposited with James K. Place & Co., and the account appears on folio 33 of the loan-book, as follows:

EXHIBIT 46.

Lewis W. Burritt, Stratford, Conn.

1865.	D'R.			
Feb'y 14	To cash	117	$300 00	
7	"	293	1,010 00	
11	"	295	500 00	
30	To balance		1,120 80	
527				$2,930 80
1865.	C'R.			
Jan'y 1	By am't from L. book B	95	$1,800 00	
May 4	" cash	159	500 00	
22	" "	175	500 00	
Nov. 30	" interest	240	130 80	
				$2,930 80
1866.	D'R.			
July 1	To balance			$2,262 00
1865.	C'R.			
Nov. 30	By balance		$1,120 80	
"	" int	240	27 75	
1866.				
Ap'l 30	" cash	97	57 60	
May 15	"	110	1,000 00	
June 30	"	36	55 85	
				$2,262 00
1866.	D'R.			
July 10	To cash	154	$2,913 75	
Nov. 14	"	262	1,211 37	
Dec'r. 31	Balance		2,532 50	
				$6,657 62

EXHIBIT 46.—*Lewis W. Burritt, Stratford, Conn.*—Continued.

1866.	C'R.				
July 1	By balance			$2,262 00	
6	" cash		152	3,000 00	
13	" "		156	500 00	
Nov. 13	" "		261	800 00	
Dec. 31	" "		80	95 62	
					$6,657 62
1867.	D'R.				
April 1	To cash		73	$500 00	
June 27	"		131	54 00	
July 1	Balance			2,100 00	
					$2,654 00
528					
1866.	C'R.				
Dec. 31	By balance			$2,532 50	
1867.					
June 27	" cash		131	41 62	
30	" interest		139	79 88	
					$2,654 00
1867.	D'R.				
Nov. 19	To cash		233		$3,232 50
1867.	C'R.				
July 1	By balance			$2,100 00	
Aug. 20	" cash		167	1,000 00	
Nov'r 20	" interest		178	73 50	
20	" L. W. Burritt		180	59 00	
					$3,232 50

Q. 457. That is a correct account, isn't it?

A. I presume it is.

Q. 458. So far as your knowledge?

A. So far as I know.

Q. 459. You knew of the transactions, didn't you?

A. Yes, sir.

Q. 460. Who acted for your father in depositing and drawing money on that account?

A. I did, I think, in every case.

Q. 461. At that time did you or did you not believe that the firm had partnership property to pay its debts?

A. I don't remember what my impressions were in regard to that; it didn't occur to me at all when I made the investment.

Q. 462. You had no opinion or belief on the subject whatever?

A. It didn't occur to my mind at all; 5-20's were cheap, and my father had given me the authority to invest the money when I saw fit; I thought it was a good time and I did it.

Q. 463. You had some belief or opinion, hadn't you, as to whether the firm had partnership property enough to pay its debts?

A. I suppose I must have considered that they had, although I did n't think anything about it in connection with this.

Q. 464. Had you or not any belief on that subject? And, if so, state what it was.

A. I don't know what I thought at the time in regard to it at all.

529 Q. 465. Had it or had it not enough to pay its debts?

A. I should say it had not from the knowledge that I have no

Q. 466. What property did you then suppose it had which you have since ascertained it had not, if any?

A. There was this stock in the Place Sugar Refinery, I considered that was worth—I don't know how much I supposed it worth; I considered it worth a large amount of money, but there has nothing ever been realized from it.

Q. 467. Is that the only item in which you were disappointed?

A. I suppose there were others, but I don't think of any now.

Q. 468. Assuming that the Place Sugar Refinery stock was worth $133,400, had the firm at that time property sufficient to pay its debts?

A. No, sir.

Q. 469. When and by whom were you told in 1867—November—to make up a trial-balance?

A. I think by James K. Place.

Q. 470. Had you at that time known of any, and, if any, of what, transactions of hypothecating merchandize?

A. I think merchandize had been deposited with Maitland, Phelps & Co., as collateral for a loan.

Q. 471. How much?

A. I think it was in the neighborhood of $50,000 in gold; I don't remember.

Q. 472. Where was that merchandize obtained from?

A. I don't know; I didn't attend to the details of it.

Q. 473. Did you know of any other hypothecation?

A. I think there was also a loan from John Caswell & Co. to James K. Place & Co., for which they held merchandize as security.

Q. 474. What was the amount of the loan and the character of the merchandize, and from whom was the merchandize obtained by James K. Place & Co.? First the amount loaned?

A. The loan was $75,000 in currency.

Q. 475. Date?

A. 4th of November, 1867.

Q. 476. On what?

A. On merchandize as collateral.

Q. 477. What kind of merchandize?

A. I think there was tea and coffee.

Q. 478. Bought when and from whom?

A. I don't know who the tea was bought from; I understand the coffee was bought from Weston & Gray.

Q. 479. When?

A. I believe it was purchased some time in Sept., 1867.

Q. 480. When was it delivered?

A. That I don't know.

530 Q. 481. Was it ever delivered to J. K. Place & Co., or was it landed directly from the ship to John Caswell & Co.?

A. I don't know. I understood it was delivered in the warehouses in Brooklyn, and stored in the name of J. K. Place & Co., but still I don't know.

Q. 482. Who did you understand that from?

A. I think William H. Gibson, a salesman, informed me of it.

Q. 483. Prior to the transaction with J. Caswell & Co., had you ever known of J. K. Place & Co. hypothecating cargoes of merchandize?

A. I think they made a loan of some kind with N. L. & G. Griswold.

Q. 484. To what amount, and when, and on what?

A. I don't remember the amount. It is my impression it was on teas, as collateral.

Q. 485. When?

A. Some time I think in 1867; I don't remember the date.

Q. 486. Was it January or July?

A. I don't remember.

Q. 487. About when?

A. It seems to have been a loan on the 5th of June, 1867, of $10,000 in currency.

Q. 488. Had you ever before that known of any hypothecation by the firm of merchandize?

A. None that I remember now.

Q. 489. Have you, since the 19th of November, 1867, heard of any loss that you did not then know of except the stock of the Place Sugar Refinery?

A. There is the loss on the business transactions of the year 1867, in the buying and selling of goods.

Q. 490. Did you then know?

A. I didn't then know how it would result; no, sir.

Q. 491. Did you know of any losses; did you know that they were or were not doing a profitable business?

A. I did not.

Q. 492. Who knew better than you whether their business was profitable or not?

A. I should say that the salesman would know.

Q. 493. Who were the salesmen?

A. M'r D. B. Alger, M'r T. T. Sheffield, and M'r William H. Gibson; M'r James K. Place sold goods, too.

Q. 494. Had the firm, on the 19th of Nov., 1867, any transactions with Thomas T. Sheffield and Daniel B. Alger? And, if so, state what such transactions were, and where they appear on the books.

A. There was paid to Daniel B. Alger, as appears by the books, $1,100.

Q. 495. Is that in your handwriting?

531 A. Yes, sir; the entry is in my handwriting, under date of Tuesday, Nov. 19, 1867, as follows: "D. B. Alger, loan ac., $1,100." There was paid Thomas T. Sheffield $4,500. The entry of that payment is in the blotter, under date of Tuesday, 19th Nov., in my handwriting: "Thomas T. Sheffield, balance loan ac., $4,500."

Q. 496. Did you make those payments; and, if so, in what form?

A. I think I made the payment to M'r Alger; I think it was made in currency, either national-bank notes or legal-tenders. M'r T. T. Sheffield—I am not certain, but I think M'r Morgan paid that.

Q. 497. Did you know that at the time?

A. If I paid that I knew that at the time; if M'r Morgan paid it I may not have known it for half an hour or an hour afterwards.

Q. 498. When was this entry made?

A. 19th of Nov., 1867.

Q. 499. That was the time, wasn't it?

A. Yes; M'r Morgan may have paid it to him, and told me of it afterwards.

Q. 500. Did the firm on that day pay Pottier & Stymus any money; and, if so, how much and on what account?

A. I don't know that they paid them any money.

Q. 501. Do you see any entry relating to such payment; and, if so, where and in whose handwriting?

A. I see an entry in the blotter cash book, in my handwriting, as follows: "James K. Place, loan ac., paid Pottier & Stymus, $1,500."

Q. 502. What do you know about that?

A. I think I gave the money to James K. Place, either a check or currency; what he did with it I don't know, but it is charged in that way.

Q. 503. Did you know M'r's E. Stevens, or know who she was?

A. I don't know her, but I understand that she is the wife of Isaac Stevens, and I think she is a sister of James K. Place.

Q. 504. When did you understand that?

A. I could not state the time.

Q. 505. Was any money paid her on the 19th of November, 1867?

A. There appears an entry on the blotter cash-book to that effect.

Q. 506. Did you know of any such payment?

A. I think not; the entry in the blotter cash-book is under date of Tuesday, 19th of November, 1867, in the handwriting of John B. Morgan: "M'r's E. Stevens, $2,650.19."

532 Q. 507. Did you know M'r's Susan P. Perry? Who was she and what had she to do with the firm of J. K. Place & Co.?

A. I think she is a relative of M'r E. B. Place; I didn't know her.

Q. 508. Look at the check now produced and shown to you, as follows: "New York, Nov. 19, 1867. Manufacturers' National Bank pay to the order of M'r's Susan P. Perry, or bearer, five thousand six hundred and eighteen and $\frac{56}{100}$ dollars, $5.618.56. Ja's K. Place & Co., by L. W. Burritt, j'r, att'y," and state in whose handwriting are the filling up and signature of that check.

A. It is in my handwriting, and the signature also.

Q. 509. What was done with it?

A. I think it was given to M'r E. B. Place: I find it entered on the blotter cash-book, under date of Tuesday, 19 November, 1867, as follows: "M'r's S. P. Perry, paid her $5,618.56," in the handwriting of John B. Morgan.

Q. 510. Please look at the entry on the credit side of the blotter cash-book, under date of Tuesday, November 19, 1867, as follows: "John B. Morgan, loan account, paid E. B. Place for 80 shares of the stock of the Manufacturers' Bank, at 101, $2,424;" and at the entry on the debit side of the blotter cash-book, as follows: "John B. Morgan, loan account. Proceeds of 80 shares of the Manufacturers' Bank stock, sold M. M. & F. F. Wood, at 103, $2,472." "E. B. Place. Proceeds of 80 shares of Manufacturers' Bank stock, sold J. B. Morgan, at 101, $2,424," and state in whose handwriting those entries are.

A. John B. Morgan.

Q. 511. Do you know anything about the transaction? And, if so, state what you know.

A. No more than what I understood from M'r Morgan, that he had bought of E. B. Place 80 shares of the Manufacturers' Bank stock and sold it to M. M. & F. F. Wood.

Q. 512. Was it simultaneously, so far as the date was concerned, with those payments to M'r's Perry, and to Alger, and Sheffield, and to your father, and to Pottier and Stymus, that the entries which have been produced in evidence from the journal relating to the 5th avenue property, the 43d street property, and the United States bonds were made on the journal?

533 A. I don't know what dates the entries were made on the journal referred to.

Q. 513. Did you know of them at the time they were made?

A. I don't remember; M'r Morgan made them.

Q. 514. Look at the check now produced and shown you, as follows:

"New York, Nov. 19, 1867. The Manufacturers' National Bank pay to the order of bearer ninety-five hundred dollars, $9,500. James K. Place & Co., by J. B. Morgan, att'y." Certified, "Fountain, cashier," and state in whose handwriting are the filling up and signature.

A. The filling up and signature is in the handwriting of John B. Morgan.

Q. 515. State if it appears in the check book; and, if so, in what words?

A. In the check-book, in the handwriting of John B. Morgan, as follows: "Bearer, Nov. 19, $9,500."

Q. 516. How much did that leave in the bank?

A. $71.12, according to the balance given here.

Q. 517. Who received the proceeds of that check?

A. I don't know who did.

Q. 518. Did you?

A. No, sir.

Q. 519. To no extent?

A. M'r Alger may have received a portion of it in that payment; I don't think that I received any.

Q. Did you know Richard S. Place? How was he connected, if at all, with J. K. Place, and where was his place of business, and what was his business?

A. He was a brother of James K. Place, and he attended to the insuring of property—goods of James K. Place & Co.; and also the insurance of James K. Place's property and James D. Sparkman's property; he had an office in the building 132 and 134 Front street.

Q. 521. After the 19th of November, 1867, had he anything to do with the books of the firm or with collecting any of its assets? And, if so, state the particulars.

A. I saw a document which was to this effect, that several open accounts due James K. Place & Co. had been sold to him; I don't recollect the tenor exactly of the document, but it was to that effect.

Q. 522. What open accounts were they?

A. I could not refer to any now, particularly; I could say Gibson, Early & Co. owed them some money, over $2,000.

Q. 523. Tweed & Andrews?

A. I don't think that amount of debt was due to the firm then.

534 Q. 524. Where and when did you see that document?

A. Some time between the 19th of November and the first of December, I think.

Q. 525. What became of the accounts so sold to him?

A. After James K. Place & Co. made an assignment to Sheffield and myself, he transferred them back to us.

Q. 526. Who collected them?

A. We have collected a portion of them; that is, M'r Sheffield has collected a portion of them.

Q. 527. Who collected the rest?

A. With the exception of those now unpaid, I think Sheffield has collected them.

Q. 528. Did Richard S. Place collect none?

A. I don't remember.

Q. 529. You havn't yet answered as to the books of the firm; I asked you whether he had anything to do with the books?

A. I think they were taken into his office, but he being blind could not have anything to do with them personally.

Q. 530. Who took them to his office?

A. I understood that John B. Morgan did.

Q. 531. Don't you know?

I think he told me that he did.

Q. 532. Did you see any there at R. S. Place's office?

A. Yes, sir.

Q. 533. Where did the firm keep its funds after the 19th of November, 1867?

A. I hadn't charge of the cash, so I don't know.

Q. 534. Don't you know at all?

A. I have understood that some of it was deposited with Marsh, Coe & Wallis.

Q. 535. How did you get your knowledge of that?

A. From M'r H. N. Titus.

Q. 536. Who were Marsh, Coe & Wallis?

A. They were lawyers for James K. Place & Co.

Q. 537. Were the books ever at their office?

A. Yes, sir.

Q. When?

A. I think some time in the month of January—some time in the month of December, I think it was.

Q. 539. Before or after you became assignee?

A. Before.

Q. Did you see them there or not?

A. Yes, sir.

Q. 541. What books did you see there?

A. I saw the journal and the ledger.

Q. 542. Did you at that time or not know or hear of any legal process against J. K. Place & Co.; and, if so, from whom did you hear it?

A. I heard of a legal process against them by the firm of J. L. Phipps & Co. I think I was informed of the fact by James K. Place
535 and by M'r Alexander H. Wallis.

Q. 543. Of the firm of Marsh, Coe & Wallis?

A. Yes, sir; and I was also served with an attachment myself in the suit.

Q. 544. Was that before or after the books were removed from the office of J. K. Place & Co.?

A. They were not all removed from the office of J. K. Place & Co.

Q. 545. I mean those that were removed; was that before or after?

A. That I don't know, because I did not do it. I did not remove them. The suit may have been commenced before the books were removed.

Q. 546. State as near as you can when the books were removed.

A. I don't know. I could only say that I think it was between the 20th of November and the 1st of December, to the office of Richard S. Place.

Q. 547. And when were they removed from his office to the office of Marsh, Coe & Wallis?

A. I should think some time in the early part of December.

Q. 548. How many persons knew of the removal of the books or where they were?

A. I don't know how many were aware of it.

Q. 549. What persons to your knowledge did know of it?

A. I knew of it; John B. Morgan, James K. Place, H. N. Titus, and there may be others, but I could not name them now.

Q. 550. On or about the 23d day of December, 1867, did you and M'r Thomas T. Sheffield receive a document under seal from James K. Place and James D. Sparkman. And, if so, please produce it.

A. We did, and I herewith produce it.

Paper copied as follows: (Printed at fo. 247, as Ex. 15.)

536 Q. 561. Please state whether or not the making of the assignment produced by you was in the ordinary course of business of J. K. Place & Co.

A. I should say it was not in the ordinary course of business of James K. Place & Co.

Q. 562. Was there on the books of James K. Place & Co. an account with Ephraim B. Place? And, if so, produce it.

A. Yes, sir; there was, and I produce it on the Ledger A, at pages 6, 7, 8, 9, 18, and 19, as follows: (This account is the same as Exhibit 30, at page —, folio —.)

Q. 563. In whose handwriting are the entries under date of Dec. 23, 1867?

A. They are in my handwriting.

Q. 564. Do you remember whether or not they were made prior to that time?

A. They were not.

Q. 565. After the making of that assignment, where did the assignees keep the property of James K. Place & Co.?

A. M'r Sheffield had the charge of it.

Q. 566. In what place was it kept?

A. I think the merchandise that was assigned remained in the storehouses where it had been stored by J. K. Place & Co. until it was sold by M'r Sheffield, and the notes and the other securities—I don't know where M'r Sheffield kept them; I think a part of the time they might have been kept over in the Long Island Safe Deposit Co., as he had a box in that building.

537 Q. 567. What property did you take possession of? I mean you and Sheffield.

A. There was the books of account, the notes owing to J. K. Place & Co., and sundry lots of merchandise; some Metropolitan Bank stock; I don't think of any others now.

Q. 568. Did you get possession of all the merchandise belonging to J. K. Place & Co.? And, if not, state what you did not get possession of, and why.

A. We got possession of all the storage receipts, I think, or M'r Sheffield did, but some of the warehousemen refused to deliver, as I understood from M'r Sheffield, the merchandise, on account of its being attached by O. W. F. Randolph.

Q. 569. Who was O. W. F. Randolph?

A. He is a proprietor of several warehouses in this city.

Q. 570. I mean as to his relations to J. K. Place & Co.?

A. He was a creditor.

Q. 571. Did the assignees ever get possession of the merchandise which Randolph claimed to have attached?

A. No more than the way that I stated—by possession of the storage-receipts.

Q. 572. Did the assignees ever make any disposition of that merchandise so claimed by Randolph?

A. I think the storage-receipts were delivered to John Sedgwick as special receiver.

Q. 573. At what date?

A. It was some time, I think, in the month of September or October, 1869.

Q. 574. After the commencement of this suit?

A. Yes, sir.

Q. 575. What possession or control, if any, did the assignees ever exercise over the interest of James K. Place in the corporation of Sparkman, Place & King?

A. We had five shares of stock that was in the name of James K. Place in that corporation.

Q. 576. What possession or control, if any, did you and M'r Sheffield as assignees have or exercise over the property at the corner of 5th avenue and 47th street, or the furniture therein?

A. None at all, that I know of.

Q. 577. What possession or control did you and M'r Sheffield, as assignees, have or exercise over the property in 43rd street?

A. None at all, that I know of.

Q. 578. Did you ever dispose of any of the 43rd street property?

A. 43rd street? I will say that we did, a part of it; that be-
538 longing or standing in the name of James D. Sparkman; as to the rest, we had no possession of it at all.

Q. 579. Did you dispose of Sparkman's lots on 43rd street?

A. I did not.

Q. 580. Who did?

A. M'r Sheffield had it.

Q. 581. Didn't you sign a deed for them?

A. I presume that I may have done it; yes, sir.

Q. 582. What were the proceeds?

A. That I don't remember.

Q. 583. Did any evidences of debt against Sparkman, Place & King come into the possession of yourself and M'r Sheffield as assignees? And, if so, state the particulars as near as you can.

A. Yes, sir; there were notes of the firm of Sparkman, Place & King—the property of James K. Place & Co., and the amount was about $60,000. The notes are now produced and shown to me.

Q. 584. Maturing when?

A. Maturing, I think, in October and November, 1868; and also I think a note of about $20,000 of Sparkman, Place & King, the property f James D. Sparkman; that was either two or three years from some time in October, 1867.

Q. 585. When those notes which matured in October and November, 1868, became due, what was done?

A. I didn't do anything with them.

Q. 586. Do you know of any arrangement for forbearance or extension?

A. No, sir; I do not.

Q. 567. Were they paid?

A. I understood from M'r Sheffield that they paid the year's interest that was due at the time of maturity, and 20 per cent. of the principal.

Q. 568. Were any steps taken to collect the remainder?

A. I understood from M'r Sheffield that M'r Wallis was arranging for the collection of them.

Q. 589. Who was M'r Wallis?

A. M'r A. H. Wallis, of Marsh, Coe & Wallis.

Q. 590. Whose counsel was he?

A. The counsel of the assignees.

Q. 591. Was he the same gentleman who had been counsel for the assignors?

A. Yes, sir.

Q. 592. Did the assignees employ him from the beginning?

A. Yes, sir.

Q. 593. And constantly, down to the present time?

A. Yes, sir.

Q. 594. Whom did you understand to be the persons interested chiefly in the corporation of Sparkman, Place & King?

A. I understand M'r Charles Place held stock there, and M'r
539 James D. Sparkman, and I presumed a M'r King; I am not positive as to that.

Q. 559. What did you understand about the relations of James K. Place or Susan A. Place?

A. That James K. Place had 5 shares, and Susan A. Place had 195 shares.

Q. 560. Were Charles Place and James D. Sparkman, and James K. Place and Susan A. Place, whom you have just mentioned, the same persons for whom M'r Wallis had been acting as counsel?

A. I believe he has been acting as counsel for M'r's Susan A. Place and M'r James K. Place, and I don't know that he has for the others.

Q. 561. Had he, up to the time of the making of the assignment to you, been acting as counsel for James K. Place and James D. Sparkman, or not?

A. I think he had.

Q. 562. Had he or not, after the making of the assignment, been acting as counsel for the same persons?

A. That I don't know, whether he had or not.

Q. 563. Is it or not the fact that in respect to the notes of Sparkman, Place & King, which passed to the assignees, the assignees employed the same counsel who had been previously acting for the persons chiefly interested in the corporation of Sparkman, Place & King?

A. The assignees employed the same counsel that they had had from the outset, and as to whether he had been acting altogether for those who were principally interested in the firm of Sparkman, Place & King, I could not state.

Q. 564. Do you know of his ever having acted as counsel for the persons chiefly interested in Sparkman, Place & King?

A. No, sir; I don't know positively.

Q. 565. Had you an account on your books with his firm? And, if so, please produce it.

A. Yes, sir; we had an account and I produce it; we had an account at page 697 of the ledger, from January 1, 1865, to Sept. 20, 1867, relating exclusively to professional services; and there is also an account on page 53, as follows:

540 EXHIBIT 47.

Marsh, Coe & Wallis.

	D'R.				
1867.					
Nov. 21.	To cash		235	$1,082 50	
"	" bills rece'ble		196	12,637 57	
27.	To cash		237	2,848 82	
29.	"		"	5,332 21	
26.	"		"	21,000 00	
30.	"		238	1,703 92	
Dec'r 2.	"		"	2,254 92	
18.	"		239	5,310 96	
21.	"		"	6,017 68	
	Balance from fol		697	100 00	
					$58,288 58
	C'R.				
1867.					
	By Geo. G. Haven, rec'r		197	$1,372 37	
	By James M. Brown "		"	18,464 61	
	" " "		204	4,726 06	
					$24,563 04

The entries in this latter account are all in my handwriting except the first debit.

Q. 566. Did those transactions take place at the dates set down in the account?

A. I presume they did; those were the dates given me.

Q. 567. What kind of transactions do they refer to?

A. They refer to money received for coffee ex Leonore, the Nautilus, and the Acme, for which a receiver had been appointed.

Q. 568. So far as you know, is the balance which appears to the debit of that account held by Marsh, Coe and Wallis, or was it ever held by them upon trust for the benefit of any creditors against James K. Place & Co.?

A. That I don't know.

Q. 569. Do you know that it is so? And, if so, name the creditor.

A. No, sir; I do not.

Q. 570. Is it held for any one's benefit, so far as you know? I am speaking now about the balance.

A. I think a portion of the balance is held by them for counsel fee.

Q. 571. For themselves?

A. Yes, sir.

Q. 572. Is there any part of it that is not offset by proper charges for professional services, so far as you know?

541 A. I think there is; still I could not name what there was; that is, I do not know what there is.

Q. 573. Have you any means of ascertaining what portion of it is held in trust for anybody?

A. No, sir.

Q. 574. Do you know anything of a meeting of the creditors of James K. Place & Co.? And, if so, state when it was held.

A. Yes, sir; a meeting was held, I think, in the early part of February, 1868.

Q. 575. When did you first hear of a creditors' meeting; that is, was the subject of a creditors' meeting spoken of by J. K. Place & Co., or any member of the firm?

A. I don't remember the time now; probably some time in the month of January, it might have been.

Q. 576. Did you hear nothing about it before that?

A. I may have done so, but I could not say positively.

Q. 577. Didn't you hear anything about it before the assignment?

A. I don't remember now that I did.

Q. 578. Look at the paper now produced and shown you, and see if it is in your handwriting, and if it enables you to fix the date of the meeting?

A. Yes, sir; it is in my handwriting, and it enables me to fix the date of the first meeting of creditors as being held on the 17th of January, 1868.

Q. 579. What steps were taken to get that meeting together?

A. I think that a notice was sent to the creditors.

Q. 580. By whom?

A. I don't remember who it was sent by.

Q. 581. What part did you take at the meeting?

A. I acted as secretary at the first meeting.

Q. 582. Did you keep minutes?

A. Yes, sir.

Q. 583. Can you produce them?

A. Yes, sir. I now produce them in my handwriting, as follows: "New York, 17th January, 1868. At a meeting of the creditors of James K. Place & Co., held at their office this day, there were present Mess'rs Eyre, Heineman, Scott, Furman, Roberts, Blydenburg, Fellows, Bailey, Booth, Perrine, Polhamus, Finch, Sproules, Sheffield, Place, (E. B.,) Whiting, (representing Brown Brothers & Co.,) Sparkman, (J. D.,) Place, (James K.,) and, on motion of M'r W'm Scott, M'r Henry Eyre was appointed chairman, who took the chair; and, on motion of M'r E. B. Place, nominated L. W. Burritt, j'r, as secretary. M'r Ja's K. Place then referred to difficulties consequent upon his arrest, and
312 the attachment of the store, and locking up the books of the firm by the sheriff, which was his reason for not calling a meeting before. He referred to losses made by the firm in bad debts, decline in goods, loss by the sugar refinery of the stock held by the firm, amounting to $133,000, &c., &c. On motion of M'r L. B. Finch it was Resolved, That a committee of three be appointed to investigate the affairs of Ja's K. Place & Co., and confer with them and report the result of their labors at the next meeting of the creditors. Also, Resolved, That the chair appoint said committee. The following gentlemen were then appointed as such committee by the chairman: O. W. F. Randolph, John E. Johnson, Courtlandt M. Taylor. On motion of M'r E. Heineman it was Resolved, That the chairman have power to fill any vacancy in the committee, if either of the above gentlemen decline to serve. Resolved, That the committee have power to employ such assistance as they may deem necessary to aid them in their labors. On motion, adjourned. Lewis W. Burritt, j'r, secretary."

Q. 584. Look at the paper now produced and shown to you, and state in whose handwriting it is.

A. In my handwriting.

Q. 585. Was it sent by you as secretary?

A. I think it was.

Q. 586. Were your minutes of the meeting correct?

A. I should say they were substantially correct.

The paper last referred to is copied in evidence, as follows:

"NEW YORK, *Jan'y* 17, 1868.

"M'r C. M. TAYLOR:

"DEAR SIR: At a meeting of the creditors of James K. Place & Co., held at their office this day, you were appointed, in connection with M'r O. W. F. Randolph and M'r John E. Johnson, (with power,) as a committee to investigate the affairs of Ja's K. Place & Co. Please attend a meeting of the committee at the office of James K. Place & Co., on Saturday, 18th instant, at 1 p. m.

"Yours, respectfully,

"LEWIS W. BURRITT, J'R, *Secretary.*"

Q. 587. Please to look at the paper now produced and shown to you, and state in whose handwriting it is.

A. The call for a meeting, I should say, was in the handwriting of Barker Place.

Q. 588. The son of James K. Place?

A. Yes, sir.

Q. 589. And a clerk in the employ of James K. Place & Co.?

A. Yes, sir; and the call is signed by myself as secretary. It is as follows: "New York, February 27, 1868. A meeting of the creditors of Mess'rs James K. Place & Co. will be held on Saturday, 29th
543 inst., at one o'clock, at their office, 132 Front street, to hear the report of the committee appointed at a previous meeting. By order of the committee. L. W. Burritt, j'r, secretary."

Q. 590. Look at the papers now produced and shown to you, and state if you recognize them.

A. Yes, sir; I recognize them.

Copies inserted, as follows:

EXHIBIT 48.

	256	To sundries. To premium on specie:	
Nov. 20	16	J. D. Sparkman, gold acc., $9,617.50 @ 40	$3,847 00
"	133	Ja's K. Place, gold acc., $61,000.00 @ 40	24,400 00
24	171	Inbusch Bro's, bill 26th Oct., $3,260.39 @ 40¼	1,328 61
26	171	Inbusch Bro's, bill 31st Oct., $3,799.40 @ 39¾	1,510 26
29	673	W. J. & J. Clarke, bill 6th Nov'r, $1,139.08 @ 39⅛	445 67
Dec. 2	327	Comegys, Brady & Co., bill 2d Nov., $2,241.42 @ 37	829 33
4	653	A. Englehard & Co., bill 4th Nov., $677.91 @ 37½	254 21
7	209	Corbin, May & Jones, bill 9th Nov., $431.28 @ 37	159 27
7	405	Reid, Murdock & Fisher, bal. acc't, $8,963.75 @ 37	3,316 59
7	426	W. J. Quan, bill 7th Nov., $419.46 @ 37	155 20
9	566	John Mann, bill 9th Nov., $1,215.73 @ 37	449 82
16	530	Meeker & Barker, bill 16th Nov., $1,108.03 @ 34½	387 81
16	429	E. C. Eby & Co., bill 16th Nov., $679.44 @ 33⅓	229 31
25	302	Moore & Hill, bill 25th Nov., $247.17 @ 34	84 04
28	317	Geo. W. King & Co., bill 27th Sept., $2,378.88 @ 33⅓	796 92
20	251	D. J. & Z. S. Ely & Co., bill 31st Oct., $56,400.00 @ 34	19,176 00
20	251	D. J. & Z. S. Ely & Co., acc't 5th Oct., $92.20 @ 34	31 35
Nov. 20	612	Importation from Colombo No. 3, bal. acc., $178.00 @ 40	71 20
	431	Place & Turlay, bal. acc't, $376.90 @ 40	150 76
	668	Warrington, McVeigh & Co., bal. acc't, $155.82 @ 40	50 33
	373	Cha's Stoughton, bal. acc't, $508.00 @ 40	203 20
			$57,877 18
	256	Premium on specie. To sundries:	
544			
Nov. 20	123	Brokerage on $2,497.43 in gold @ 40 per cent	$998 97
20	56	Insurance on $180.00 in gold @ 40 per cent	72 00

EXHIBIT 48—Continued.

20	70	U. S. taxes on $335.00 in gold @ 40 per cent		142 00
20	345	Alfred Arone, on $116.82 in gold at 40 per cent		46 73
				1,259 70
	14	Merchandise. To sundries:		
	136	A. Legget & Son, bill 7th Nov		33 30
	289	Bunge, Burlage & Co., bal. bill 29th June		583 40
	166	The Place Sugar Ref'y:		
		bill 18th Nov	$10 00	
		" 18th "	$40,687 50	
				40,697 50
	559	Heinemann & Payson, bal. bill 14th Sept		47,509 95
	196	Weston & Gray, bill 14th Sept		93,042 18
	600	Henry Eyre, bill 23d Sept		105,129 50
	245	John Bertram, 14th Oct		11,524 52
	187	Joint acc't ginger with Place & Turlay:		
		Sale 50 bags to Moore & Hill, 11th April	$946 05	
		Sale of 50 bags to Parker & D., 22d July	879 70	
				1,725 75
	187	Joint acc't sale 150 bags ex C. Grinnell, 20 Nov	454 76	
		Sale 849 bags ex Ann & Eliz., 20th Nov	3,656 11	
		Sale 892 bags ex L. Palmerston, 20th Nov	3,823 27	
		Sale 278 p'k'ts ex A. Roylston, 20th Nov	517 75	
		Sale 2,771 p'k'ts ex Childwicksb'g, 20th Nov	4,141 15	
		Add prem. on $12,593.04 @ 40	5,037 22	
				17,630 26
	302	Moore & Hill, acc. 1st Dec		7 51
	544	John Watson, am'ts paid on acc't bills 29th Oct., which are cr. m'd'se in cash-book		4,824 50
	222	J. L. Phipps & Co., refund duty coffee, S't Ursula		*75 25
545				
	136	Thomas L. Whitridge & Co., ref'd duty coffee Havana		*332 45
	634	Importation from Rio de Janeiro, No. 6, for sales coffee ex Contest		*118,931 57
	454	Reeve, Case & Co., bill 25th Nov., not delivered		616 64
	454	Reeves & Parvin, bill 25th Nov., not delivered		598 94
	454	E. Dyer, bill 23d Nov., not delivered		299 82
	454	L. Schepp, bill 22d Nov., not delivered		*530 34
	145	John Coleman, cooperage ac't		45 00
	373	Charles Stoughton—teas returned us:		
		1,114 h'f c. ex. Broadwater, av'ge 48,013 @ 53	*$25,446 89	
		164 h'f c. ex Albatross, av'ge 7,034 128 boxes ex Albatross, av'ge 2,752 @ 70	*6,850 20	
			32,297 09	
		Less duty $14,449.75 and 3 per cent. =	$14,883 24	
		Less int. on $17,414 bo'ds, 9 per cent	261 03*	
			*15,144 27	
				*17,152 82
	141	Davenport & Son, cartage to 26 Nov., as per account rendered		4,837 50
	631	Thomas Kerr, refund duty due him 50 bags coffee, Acme		*16 75
	313	G. W. Flanders & Co., allowance 25 bags coffee sold 2d Oct., 1867; see our letter to them 25th Oct., 1867		121 52
				465,966 97

EXHIBIT 48—Continued.

56	Insurance. To sundries:		
251	D. J. & Z. S. Ely, on coffee ex Naiad		134 23
136	R. S. Place, paid by him in Dec		420 42
			$554 65
91	Storage. To sundries:		
136	Aymar & Co., bill Sept. 28		61 76
136	C. L. & J. L. Colby, bill Nov. 15		127 86
134	Philip Livingston, " " 20		165 74
136	Wetmore, Cryder & Co., bill Nov. 15	$21 44	
546	Dec. 3	226 50	
	" 10	104 76	
			$352 76
106	O. W. F. Randolph, bills rendered		564 05
251	D. J. & Z. S. Ely & Co., bill Nov. 22		270 00
	Howland & Aspenwall—		
	Bill Dec. 1	$20 32	
	" " 1	72 61	
	" " 1	100 66	
			193 65
			63 00
136	E. C. Johnson & Co., bill Dec. 1		92 44
136	N. F. Bryant, " " 1		
			$1,891 26
17	Interest to sundries:		
251	D. J. & Z. S. Ely, per account rendered		687 32
187	Joint acc't ginger P. & T., on sales, per acc't rendered		79 52
132	Jane C. Place, bond and mortgage to 1st Dec., 1867		2,751 00
593	Wainwright & Co., in acc't		3 36
232	Ja's Graham & Co., "		*16 49
			$3,537 69
123	Brokerage. To sundries:		
	J. W. Prichard		6 32
	A. G. Hildreth & Co		39 83
	O. W. Booth & Co		135 59
	Sheffield & Childs		16 61
	Allan & McDonald		6 55
	Dymond & Lally		24 68
	H. H. Lemcke		63 57
	Edwards & Holmes		3 82
	W. H. Blair		3 39
	M. Canfield		23 78
	Barcelo, Vatable Bro's		6 27
	J. & J. R. Montgomery		63 62
	Warren Beebe & Co		2 85
	W. H. Riley		7 92
	Osborn & Bates		25 38
	J. S. Barrett & Co		5 25
	John Bailey & Co		29 22
	R. D. Case & Co		14 13
	Carew & Hayden		3 18
	Young & Knapp		8 09
	Green & Wattles		4 80
	Pierson & Beebe		11 97
	Foote & Lewis		17 00
	Cleveland, Case & Co		38 98
547	J. H. Wilson		$3 34
	J. H. Recknagel		3 80
	Hackett & Henderson		1 62
	Benj. Squire		6 98
	Morris & Sherman		13 60
	W. G. Ray & Co		12 23
	H. W. Small & Co		17 31
	R. H. Leathem		18 54

EXHIBIT 48—Continued.

		Linton & Grieve	45 84
		Geo. S. Scott	186 56
		Ab'm Wyckoff	392 11
		Olendorf, Case & Co	330 46
		W'm Scott & Sons	441 03
			$2,036 22
3		Ja's K. Place:	
14		To Barker Place, for balance acc	443 72
431		Place & Turlay:	
187		To joint account ginger—P. & T. For sale to Dwinell & Co., 30th May, 1867	944 03
187		Joint acc. ginger, P. & Turlay. To sundries:	
431		Place & Turlay, for amounts paid by them, and interest on same, to 20th Nov., 1867, viz:	
		On 150 bags ginger, ex C. Grinnell	$1,809 70
		Acc't 492 bags ginger, ex L. Palmeston	5,733 00
		On 278 p'k'ts ginger, ex A. Roylston	1,431 90
		On 2,771 p'k'ts ginger, ex Childswicksberg	11,690 84
			20,665 44
255		Premium on specie: For prem. on—	
		$3,603.05 gold @ 40 p. c	1,441 22
		$8,376.00 " @ 40 "	3,350 40
			4,791 62
241		Charges on borrowed gold:	
		Cost for borrowing—	
		$3,603.05 gold	720 61
		$8,376.00 "	1,675 20
			2,395 81
91		Storage, per account rendered	350 46
56		Insurance, " "	189 00
17		Interest on payments, per acc't rendered	1,663 57
			$30,055 90
187		Sundries, to joint account ginger, P. & T.	
413		Place & Turlay, half loss on the account	10,878 64
548	93	Profit and loss, 1867, half loss on the account	$10,878 63
			$21,757 27
25		Expense—To real estate 132 & 134 Front st.	
41		For rent to November, 1867	4,454 84
136		To New York Gas Light Co.—	
		For gas bill 31st December, 1867	35 95
			$4,490 79
14		Merchandise. To sundries:	
695		Importation from Singapore, for amount gold to debit account	*70,679 37
695		Amount currency to debit account	2,881 25
		John Coleman, account for cooperage	
644		Importation from Padang, No. 3, for amount gold to debit account	*156,786 26
681		Importation from Rio de Janeiro, No. 14, for amount gold to debit account	*3,256 24
451		Howland & Aspinwall, am't c'h'g' 26th Oct	*118 70
256		Premium on specie, for balance account	909,934 14
254		Imp'n from Rio, No. 12, for balance account	96,738 35
261		" " " 13, " "	57,296 45
648		Importation from Padang, No. 1, for amount gold to debit account	*93,807 65
648		Amount currency to debit account	176 47
531		Importation from Rio, No. 15, balance acc't	107,843 97
			$1,499,518 85

EXHIBIT 48—Continued.

	14	Merchandise:		
	285	To W. F. Weld & Co., for estimated amount required to pay balance duty due on pepper, ex Orpheus, say in currency		5,600 00
	431	Place & Turlay:		
	93	To profit and loss, 1867, for interest on sale ginger, 29th June, 1867		26 17
		Sundries.		
	14	To merchandise:		
	634	Importation from Rio de Janeiro, No. 6, for duty on coffee, ex Contest		*22,559 95
	373	Cha's Stoughton, duty paid for his account on teas bought 9th May and 6th July		*8,680 00
	373	Cha's Stoughton, depreciation and difference in valuation 1,406 p'k'g's tea ret'd 29th July, from valuation of invoice and at time of sale made July 5		4,122 04
	261	Importation from Rio de Janeiro, No. 13, for duty paid on 1,135 bags coffee, Nantilus		*9,112 50
	234	Importation from Rio de Janeiro, No. 12, for duty paid on 1,000 bags coffee, Leonore		*7,943 75
549	644	Imp'n from Padang, No. 3, paid duty 154 cases mace, per Alblasserwaid	*4,121 20	
		5,450 mats coffee per do. *$18,578 35		
		Less return duty *401 35		
			*18,177 00	
				*22,298 20
	695	Imp'n from Singapore, No. 1, paid duty		
		14 boxes nutmegs, ex G. Canning	*490 00	
		495 bags pepper, do	*6,907 50	
		921 mats coffee, do	*2,776 55	
		1,277 " " ex J. Norman	*4,263 00	
				*14,436 05
	631	Thomas M. Kerr, for 50 bags Rio coffee, ex Acme, W. A., No. 14, 7,742—77=7,665@8, being all delivered him from lot 133 bags, sold Nov. 9, 1867		*613 20
	631	Thomas M. Kerr, for charges on above, cur'y		21 25
				$95,786 94
	634	Importation from Rio de Janeiro, No. 6.		
		To sundries:		
	90	Storage, including labor, coffee, ex Contest		530 95
	25	Expense for cleaning do		416 57
	56	Insurance against fire do		180 00
	14	Merchandise, cartage, do		220 00
	123	Brokerage in gold, do	187 65	
		41 per cent. premium	76 94	
				264 59
	70	U. S. taxes, in gold, do	118 93	
		41 per cent. premium	48 76	
				167 69
	17	Interest in gold, do	256 23	
		41 per cent. premium	105 05	
				361 28
				2,141 08
	255	Premium on specie. To sundries:		
	634	To importation from Rio, No. 6:		
		For premium on gold balance, bal. in account, $7,028.31@41		2,881 61
	634	Importation from Rio de Janeiro, No. 6:		
	93	To profit and loss, 1867.		
		For profit on coffee, ex Contest		7,768 84

EXHIBIT 48—Continued.

	112	J. K. & E. B. Place, No. 3. To sundries:		
	697	Marsh, Coe & Wallis, for fees, payable cost, &c., in case Place versus Strong:		
		Retaining fee and counsel, p'd 31st Dec., 1864	$250 00	
550		Stenographer's bill, paid 9th March, 1866	56 80	
		Referee's fees, costs and disbursements paid 20th M'ch, 1866	2,863 54	
		Printing report case, paid 2d July, 1867	330 00	
		Clerk's fees, supreme court, paid 20th Sept., 1867	40 00	
		Printing points for appeal, paid 20th Sept., 1867	60 00	
				3,600 34
	139	S. W. Adams & Co.		1,000 00
	17	Interest for interest to 20th Nov., 1867, on M. C. & W. charges		400 00
				$5,000 34
	93	Profit and loss, 1867. To sundries:		
Nov. 20	645	J. A. Cooper & Co., for part acc't		1,033 70
"	132	J. A. Robinson, " "		415 91
"	373	Cha's Stoughton, for balance acc't		8,947 66
"	17	Interest, " "		29,128 62
"	56	Insurance, " "		8,526 23
"	70	U. S. taxes, " "		8,222 76
"	91	Storage, " "		22,080 37
"	123	Brokerage, " "		19,810 05
	93	Profit and loss, 1867.		
	25	To expense, for balance acc't		52,256 76
	28	" U. S. 5-20, '67, " "		74 49
	93	Merchandise, " "		301,119 53
	4	Ja's K. Place. To sundries:		
	64	Livingston & Place, amount paid 6th April, 1866	$746 01	
	17	Interest on same to Nov. 20, 1867	83 99	
				830 00
	58	Real estate, Gates avenue.		
	132	To J. A. Robinson:		
Nov. 20		For balance account this date		2,353 43
	132	J. A. Robinson:		
"	431	To Place & Turlay, for their proportion of proceeds sale his house and furniture on Gates avenue, Brooklyn		1,953 43
	112	J. K. & E. B. Place, No. 3:		
	132	To J. A. Robinson, for their proportion of loss on his account. Total amount loss $775.12		342 50
	102	Profit and loss, 1866:		
	132	To J. A. Robinson, for part of balance acc't		442 71
	41	Real estate, 132 & 134 Front street.		
551	136	To City and County of New York, for taxes on property, 1867	$1,874 00	
		For assessment for Belgian pavement in Pine street	281 67	
				$2,155 67
	14	Merchandise.		
	93	To profit and loss, 1867, for inventory, as follows:		
		With J. Caswell & Co., as collateral for loan	$61,285 85	
		With Maitland, Phelps & Co., as collateral for loan	57,393 61	
		With G. G. Haven, receiver of coffee, ex. Acme, 462 bags, at Harbeck's	7,085 48	

EXHIBIT 48—Continued.

		In hands of J. K. P. & Co	48,529 49	
		Gold	174,294 43	
		Add premium @ 40	69,717 77	
				244,012 20
	32	Bills receivable. To —		
	132	J. A. Robinson, for J. M. Moore, notes given on account furniture at house Gates ave., due 1st May, 1868, $500, and 1st Nov., 1868, $500		1,000 00
	142	Creditors of Charles Stoughton.		
	373	To Cha's Stonghton, for balance account		7,315 42
	285	W. F. Weld & Co.		
	14	To merchandise, refund duty on cassia, ex Franklin	*$474 20	
		Balance due on cassia	*20 80	
		Following amounts received by them for payment duty on nutmegs, ex Rainbow:		
		M'ch 21, Robinson, N. & R	*850 00	
		26, Danforth, S. & Co	*850 00	
		Ap'l 3, " "	*480 00	
		6, " "	*46 75	
		11, " "	*352 37	
		May 9, Robinson, Nourse & Co	*350 00	
		July 23, " "	*175 00	
		24, " "	*175 00	
		Sept. 21, Danforth, S. & Co	*400 00	
		25, Robinson, N. & R	*350 00	
		30, Danforth, S. & Co	*350 00	
		Oct. 4, " "	*350 00	
		9, " "	*700 00	
		10, Robinson, N. & R	*350 00	
		15, " "	*3 00	
	552	25, Danforth, S. & Co	*$887 12	
		Nov. 18, Robinson, N. & R	*350 00	
		22, " "	*875 00	
		Dec. 21, " "	*162 50	
				*8,551 74
	14	Mdse. To W. F. Weld & Co.:		
	285	Additional duty on cloves, ex Agnes	*55 80	
		Duty paid on 190 boxes nutmegs, Rainbow	*6,301 50	
		Duty paid on balance nutmegs, Rainbow	*4,473 24	
				*10,830 54
	153	Mora & Arengo.		
	177	To gold call loans		
Dec.	18	For loan gold returned		*25,000 00
	177	Gold call loans:		
	153	To Mora & Arengo.		
Dec.	18	For currency deposit against loan $25,000 gold R		35,250 00
		Sundries. To—		
	53	Marsh, Coe & Wallis:		
	73	G. G. Haven, receiver, for coffee, ex Acme, amount paid him		1,372 37
	78	James M. Brown, receiver, for coffee, ex Leonore and Nautilus.		
		Am't paid 16 Dec	$9,500 00	
		" " 18 "	8,589 36	
		" " 28 "	375 25	
				18,464 61
	241	Sundries. To charges on borrowed gold:		
	159	Kidder, Peabody & Co., for bal. account gold	*$227 86	
	247	Premium on specie for premium @ 40 per cent	91 14	
				319 00

EXHIBIT 48—Continued.

		Importation from Rio de Janeiro, No. 15.		
		To J. L. Phipps & Co., for estimated amount required to cover costs drafts due in Liverpool 3d Jan., 1868, for coffee, ex Naiad, to be remitted 17th Dec., 1867, say £15,900 st'g, =		
	261	Importation from Rio de Janeiro, No. 13.		
	121	To Duncan, Sherman & Co., for estimated am't required to cover coffee, ex Nautilus, drafts due in Liverpool 4th Jan., 1868, to be remitted 14th Dec., 1867, say £16,670 st'g, = in currency		$110,000 00
	254	Importation from Rio de Janeiro, No. 12.		
553	162	To Brown, Bro's & Co., for estimated amount required to cover cost coffee, ex Leonore, drafts due in Liverpool, to be remitted 3d Dec., 1867, say £15,700 st'g, = in currency		$106,000 00
	531	Importation from Rio de Janeiro, No. 15.		
	222	To J. L. Phipps & Co., for estimated amount required to cover coffee, ex Naiad, drafts due in Liverpool, to be remitt'd 17th Dec., 1867, say £15,900 st'g, = in currency		105,000 00
	162	Brown, Bro's & Co.		
	294	To import'n from Rio, No. 12.		
		For estimated value of 1,018 bags coffee, ex Leonore, returned them		21,000 00
	121	Duncan, Sherman & Co.		
	261	To import'n from Rio, No. 13.		
		For estimated value of 3,030 bags coffee, ex Nautilus, returned them		65,000 00
	93	Profit & loss, 1867.		
	241	To charges on gold:		
		For balance latter account		36,160 79
	78	James M. Brown, rec'r.		
	32	To B. receivable for following notes, or amount of same handed him by A. H. Wallis, Ewing, Briggs & Co., due 30th Dec	2,364 89	2,364 89
	53	Marsh, Coe & Wallis.		
	32	To bills receivable for following notes:		
		Moore, Jenkins & Co., due 2d Jan	1,093 47	
		G. F. Gilman, 7th Jan	3,545 23	
		Cha's Stoughton, 8th Jan	1,412 53	
		Meeker & Barker, 2d Jan	411 60	
		T. Y. Kelly & Co., 13th Jan	412 60	
		T. Y. Kelly & Co., 12th Feb	415 74	
		Jenkins & Co., 26th Feb	415 20	
		G. F. Gilman, 1st Feb	2,795 68	
		E. Stinson & Co., 3d March	1,328 30	
		Reeve, Case & Co., 19th March	807 22	
				$12,637 57
	213	Mrs. M. C. Van Benschoten.		
554	32	To bills receivable for her notes, endorsed by M. A. Van Benschoten, protested:		
		Due 7th Nov., 1867	$333 33	
		" 8th Dec., "	333 34	
		" 7th Jan., 1868	333 33	
				$1,000 00
	93	Profit & loss, 1867.		
	103	To profit & loss, 1866:		
		For following amounts transferred to cr. of former ac't from latter account:		
		Imp. Shanghai. No. 1 Lota	22,878 21	
		" Rio, per Warwick	5,223 32	
		" Padang, per Dunmore	20,855 48	
				48,957 01

EXHIBIT 48—Continued.

103	Profit & loss, 1866.		
93	To profit & loss, 1867:		
	For following amounts transferred to d'r of latter ac't from former account:		
	Imp. from Colombo, per Milly	4,736 47	
	Imp. from Colombo, per Alvington	9,865 67	
			14,602 14
103	Profit & loss, 1866.		
	To sundries:		
4	Ja's K. Place, ⅔ of 33,822 16		25,434 12
11	Ja's D. Sparkman, ⅓ do.		8,478 04
			33,912 16
	Sundries:		
112	To J. K. & E. B. Place, No. 3.		
4	J. K. Place, for ½ account.....		4,190 55
18	E. B. Place, " ½ "		4,190 55
11	J. D. Sparkman, for ⅓ account.....		2,793 70
			11,174 80

EXHIBIT 49.

LIABILITIES.

Residence.	Name.	Remarks.	Gold.	Amount.
New York	Simon de Visser	Balance due upon account		$3 03
Rochester	Vanzandt Bro's	"		4 61
Baltimore	E. Levering & Co	"		7 70
"	Benjamin Perry	"		84 62
Chicago	W. M. Hoyt & Co	"		188 70
New York	Alfred Arone	Proceeds sales coffee		165 00
"	Place, Trigg & Co.	Balance due open account		493 12
Philadelp'a	W. H. McCahan & Bro	"		22 00
Chicago	Ried, Murdoch & Fisher	"		112 67
New York	Bunge, Burlage & Co	Bal'ce of bill 29th June, '67		5<3 40
"	Sackett & Mackay	Stationery		159 36
"	Fountain & Churchill	Weighing		164 37
"	Pine, Wright & Twiggs	"		219 15
"	R. Parker	Ice		48 60
"	R. W. Roberts	Sprinkling streets		28 00
"	A. Leggett & Son	Coffee		33 30
"	Howland & Aspinwall	Storage		193 65
"	Aymar & Co	"		61 76
"	E. C. Johnson & Co	"		63 00
"	Philip Livingston	"		165 74
"	Wetmore, Cryder & Co	"		352 76
Boston	N. Bryant, sup't	"		92 44
Montreal	Geo. S. Scott	Brokerage		186 56
Philadelp'a	Linton & Grieve	"		45 84
Cincinnati	H. W. Small & Co	"		17 51
New York	W. Scott & Sons	"		441 03
"	Abraham Wykoff	"		392 11
556 "	Olendorf, Case & Co	Brokerage		$430 46
"	Otis W. Booth & Co	"		135 59
"	A. G. Hildreth & Co	"		39 83
"	Sheffield & Childs	"		16 61
"	Dymond & Lally	"		24 68
"	H. H. Lemcke	"		63 57
"	M. Canfield	"		93 78
"	J. & J. R. Montgomery	"		63 62
"	Osborne & Bates	"		25 38
"	John Bailey & Co	"		29 22
"	R. D. Case & Co	"		14 13
"	Foot & Lewis	"		17 00
"	Cleveland, Case & Co	"		38 98
"	Pierson & Beebe	"		11 97
"	R. H. Leathem	"		18 54
	Morris & Sherman	"		13 60

EXHIBIT 49—Continued.

	Residence.	Name.	Remarks.	Gold.	Amount.
	"	N. Y. Gas Light Co	Gas to 1st Jan., '68		35 95
	Louisville	Wm Heffeman	Balance due open account		229 19
	Brooklyn	Tho's T. Sheffield	Services to 15th Dec., '67		1,500 00
	New York	W. G. Ray & Co	Brokerage		$6,961 93
	"	W. H. Riley	"		12 23
	"	G. W. Prichard	"		7 92
	"	Allen & McDonald	"		6 62
	"	Barcelo, Vatable Bro's	"		6 55
	"	Young & Knapp	"		6 27
	"	Benjamin Squires	"		8 00
	"	Hackett & Henderson	"		6 98
	"	Warren, Beebe & Co	"		1 62
557	"	Carew & Heydon	"		2 85
	"	Jos. H. Wilson	Brokerage		3 18
	"	W. H. Blair	"		$3 34
	"	J. H. Recknagel	"		3 39
	"	Edwards & Holmes	"		3 80
	"	J. S. Barrett & Co	"		3 82
	"	Green & Wattles	"		5 25
	"	Henry Eyre	Balance due 22d Nov., '67, on bill coffee		4 80
	"	City and county	Taxes 1867, on store		129 50
	"	"	Assessment on store		1,874 00
	"	George Wells, Jr	Loan on call, int. due from 3d Oct., '67		281 67
	"	Peter Scherstén	" " " 4th June, '66		2,500 00
	Brooklyn	"	" " " 5th March, '67		1,550 00
	"	E. L. Roberts	Services as architect		1,000 00
	New York	Henry D. Van Orden	Loan on call, int. due from 28th May, '67		5,600 00
	Buffalo	D. J. & Z. S. Ely & Co	Balance due on open account, 18th Dec., '67		7,500 00
	"	Miller, Greiner & Co	" " 20th Nov., '67		3,361 73
	New York	"	Check given for draft, favor of Smith, Son & Co		1,997 98
	"	Manufacturers' Nat'l B'k	Balance loan 20th Nov., '67, note and endorsed by E. B. Place, and should be under his name.		2,968 69
	Sing Sing	Joseph S. Barker	Cash on deposit		22,494 50
	New York	O. W. F. Randolph	"		24,500 00
	"	Robert Reade	"		65,000 00
	"	Jane C. Place	"		10,361 24
	"	Susan A. Place	"		53,518 00
	"	Heinemann & Payson	"		9,039 00
			Balance due 18th Nov., '67, on bill tea 31st Aug., '67		47,509 95
	Salem	John Bertram	Amount due 14th Dec., '67, on bill coffee 27th July, '67, for $8,598.89 gold		$268,214 60
558	New York	Weston & Gray	Amount due 3d Dec., '67, on bill coffee, 9th Sept., '67, for $67,914 gold		11,524 52
	Boston	W. F. Weld & Co	Estimated amount required to close duty on pepper ex Orpheus due from J. K. P. & Co		893,042 18
					5,000 00

New York	J. L. Phipps & Co	Estimated amount required on 17th Dec., '67, to cover cost coffee ex Naiad, $78,000, gold		105,000 00
"	Brown Bro's & Co	Estimated amount required on the 3d Dec., '67, to cover cost coffee ex Leonore, $77,000, gold	106,000 00	
"	"	Less value 1,018 bags this coffee released them	21,000 00	
"	"	Estimated loss on the 361 bags coffee p'r Bravo		87,000 00
"	Duncan, Sherman & Co	539 mats coffee per M. Rideout	1,083 00	
"	"	Estimated amount required on the 13th Dec., '67, to cover cost coffee ex Nautilus, $82,000, in gold	404 00	
"	"	Less value 3,030 bags this coffee released them		1,487 00
"	"	Estimated loss on the 1,423 bags coffee p'r Bravo	110,000 00	
"	"	750 bags coffee per N. America	65,000 00	
"	"	" on Carver, W. & Co. account		45,000 00
New York	Agency Bank British North America.	Estimated loss on the 3,323 bags coffee p'r Bravo	3,369 00	
"	"	5,497 bags coffee per Fidelia	1,025 00	
"	"	5,216 " " " Die Emte		4,394 00
New York	Ephraim B. Place	J. K. Place & Co., note @ 5 years 1st December, 1865, interest @ 7 per cent. per annum, (paid to 1st June, 1867;) this note was given him for his interest in the firm of Place & Turlay, on that date		3,500 00
		Interest on do. to 1st December, 1867	9,969 00	
		Following notes settled by him, he being liable for payment of them, viz. J. K. Place & Co., notes:	4,122 75	
		One due 27th November, 1867	4,000 00	
		One " 14th December, "		$18,091 75
		One " 29th " "		$640,274 05
		One " 21st " "		
		Viz. J. K. & E. B. Place, notes given A. S. Anderson:		
		One dated 20th February, 1863	50,000 00	
		One " 18th March, "	25,000 00	
		One " 7th " "	25,000 00	
		One " 4th " "	20,000 00	
		One " 4th " "		
		Carver, Wendover & Co.'s note, due 31st December, 1867	5,000 00	
		Bentley, Burton & Co.'s note, due 8th December, 1867	5,000 00	
		A. A. Gould's note, due 18th February, 1868	5,000 00	
		Shields & Boucher's note, due 26th November, 1867	5,000 00	
		Also liable on balance cash deposited by A. S. Anderson with J. K. & E. B. Place, interest on which has been paid to April 6, 1867	5,000 00	
		Also liable on cash deposited by Ten Broeck & Silkman, 2d June, 1864, (interest paid to 2d June, 1867,) with J. K. and E. B. Place	6,000 00	
		Also J. K. & E. B. Place, note given R. Ten Broeck, 13th September, 1862, for $2,050, balance due 20th November, 1867	5,000 00	
		For amount notes and accounts on which he is liable for the payment as stated on previous page	6,000 00	
			1,000 00	
			917 58	
			165,601 42	30,000 00
				1,015 00
				671,289 05

559

EXHIBIT 49—Continued.

Residence.	Name.	Remarks.	Gold.	Amount.
		LESS.		
		Amount to his debit		
560		Following securities held by him:		
		1,133 shares Place Sugar Refinery, $100 ea., worthless		
		200 share Sparkman P. & K., $100 ea.		
		12 shares Humboldt Ins. Co., $100 ea.		
		90 shares Corn Exchange Ins. Co., $50 ea		
		Mf. Bank, balance loan on demand	$22,494 50	
		Note $25,000, end. by E. B. Place, dated 31st May, interest paid to 1st July, included in open ac't		
New York	Ja's K. Place & Co., notes as follow held by Henry Eyre:			
	21 notes, $5,000 ea., due 22d November, '67		105,000 00	
"	Manufacturers' National Bank:			
	2 notes, $5,000 ea., due 28th November, '67	$10,000 00		
	2 " " " " 29th "	10,000 00		
	2 " " " " 30th "	10,000 00		
	2 " " " " 2d December, '67	10,000 00		
	2 " " " " 3d "	10,000 00		
			50,000 00	
"	Fourth National Bank:			
	2 notes, $4,500 ea., due 27th January, '68	9,000 00		
	1 " " 21st "	4,562 50		
	1 " " 10th "	4,562 50		
	1 " " 10th "	4,500 00		
			22,625 00	
"	American Exchange National Bank:			
	1 note due 31st December, 1867		4,862 50	
"	Goodridge & Walker:			
	1 note due 31st December, 1867		5,000 00	
"	William Agnew & Son:			
	1 note due 10th December, 1867		5,000 00	
"	Merchants' Exchange National Bank:			
	1 note due 26th December, 1867		5,000 00	
561 New York	Spence, Montague & Co.:			
	1 note due 26th December, 1867	$5,000 00		
	1 " 26th "	5,000 00		
			$10,000 00	
"	H. Blydenburgh:			
	1 note due 30th November, 1867	5,000 00		
	1 " 26th "	5,000 00		
			10,000 00	
Norwich	Merchants' Bank:			
	1 note due 13th December, 1867		5,000 00	

Newark	Newark Banking Co.:			
	1 note due 23d November, 1867		5,000 00	
New Haven.....	Second National Bank:			
	1 note due 27th December, 1867		5,000 00	
	Amount forward		$232,487 50	
New York.	James K. Place & Co., notes held by Butchers and Drovers' Bank:			
	2 notes, $5,000 ea., due 20th November, 1867	$10,000 00		
	1 " " 23d "	5,000 00		
			15,000 00	
New Haven	First National Bank:			
	2 notes, $5,000 ea., due 30th November, 1867	10,000 00		
	1 " " 29th "	5,000 00		
	1 " " 6th January, 1868	5,000 00		
			20,000 00	
New York	Atlantic Mutual Insurance Company:			
562	1 note due 29th December, 1867, prem. on open policy	$4,801 25		
	1 " 10th " "	2,063 75		
	1 " 30th " "	1,688 75		
	1 " 28th February, 1868 "	1,266 87		
	1 " 13th March, " "	2,345 00		
	1 " 24th June, " "	6,001 25		
	1 " 2d July, " "	3,601 25		
	1 " 2d August, " "	1,201 25		
	1 " 25th April, " "	1,829 37		
	1 " 25th November, " "	1,829 37		
			$36,628 11	$294,115 61
	$294,115.61 is the total amount notes outstanding on 20th November, 1867, exclusive of note $30,000 given E. B. Place for his interest in firm Place & Turlay, 1st December, 1865, (and exclusive of notes $120,000 endorsed by him and which he has settled, for particulars of which see indebtedness of J. K. Place & Co. to E. B. Place.)			
	James K. Place & Co. are liable for the endorsement following notes which are not paid:			
	Bentley, Burton & Co., due 4th December, 1867		$5,000 00	
	" " " " 15th " "		1,208 04	
	A. A. Goold, " 23d February, 1868		2,491 44	
				$8,699 48
	Discounted by W. Endall for J. K. Place & Co.:			
	A. A. Goold, due 13th December, 1867		.....	2,709 95
				$11,409 43
	Discounted by Bank of America for J. K. Place & Co.			
	Place Sugar Refinery notes discounted for J. K. Place & Co. by American Exchange National Bank:			
	Due 31st December, 1867	$5,000 00		
	" 31st " "	4,862 50		
			$9,862 50	
563	By Manufacturers' National Bank:			
	Due 24th December, 1867	$10,000 00		
	" 15th January, 1868	10,000 00		
			$20,000 00	

EXHIBIT 49—Continued.

Residence.	Name—remarks.		Gold.	Amount.
	Discounted for the refinery by Fourth National Bank:			
	Due 28th November, 1867	$15,000 00		
	" 28th December, 1867	10,000 00		
			25,000 00	
	Given to the following parties for sugar purchased:			
	Spence, Montague & Co		62,657 35	
	Thomas J. Owen		70,656 51	
	C. P. Fischer & Co		92,450 17	
				280,626 53
	Total liability for endorsements:			292,035 96
	Sundry business notes	$11,409 43		
	Place Sugar Refinery notes	280,626 53		
	Making in all	$292,035 96		

EXHIBIT 49—Continued.

564 RECAPITULATION.

LIABILITIES.		
Discounted business paper, (exclusive of Place Sugar Refinery notes,) which is endorsed by J. K. Place & Co., protested		$11,409 43
Open accounts, which include amount due Weston & Gray, and estimated amounts due Duncan, Sherman & Co., Brown Bro's, and B'k Br. N. America		640,274 00
J. K. Place & Co., notes held by banks and sundry parties	$294,115 61	
J. K. Place & Co. notes endorsed by E. B. Place	120,000 00	
J. K. Place & Co. note held by do	30,000 00	
		444,115 61
E. B. Place for 6 mo. int., due 1 Dec., '67, on above note of J. K. P. & Co. for $30,000	1,015 00	
Do. do. for liability on loans to J. K. & E. B. Place by sundry parties previous to 1866	32,917 58	
	$33,932 58	
Less amount to his debit on books, J. K. Place & Co.		$1,139,731 67
Do. and value of securities held by him as collateral.		
E. B. Place, his endorsement, J. K. Place & Co., note payable on demand, and held by Manuf's Nat'l B'k, contracted and dated 31 May, '67, bal. due 20 Nov., '67, included in open accounts by mistake	22,494 50	
ASSETS.		
Bank stock and insurance scrip good	10,000 00	
Open accounts	69,246 81	
Bills receivable	69,259 41	
		148,586 22
Doubtful acc'ts and bills receivable, amounting to $ value		38,000 00
Coffee, valued in gold	*24,106 78	
Spices, " "	*21,540 81	
Tea, " "	*5,511 86	
Add premium at 33⅓	17,053 15	
1,000 barrels of syrup, valued in c'y	40,687 50	
		108,900 10
Coffee, with Maitland, Phelps & Co., as collateral for loan, gold, valued	*57,393 61	
Less amount loan	*48,612 22	
Surplus after paying them, gold	*8,781 39	
Add premium at 33⅓	2,927 13	
		11,708 52
J. D. Sparkman's net assets		75,528 94
J. K. Place " "		8,374 00
		391,097 78
PROPERTY IN HANDS OF RECEIVERS.		
Proceeds coffee—		
Ex Acme, Weston & Gray lot	26,479 72	
" Nautilus, Duncan & Co. do	38,645 93	
" Leonore, Brown Bro's & Co. lot	16,852 12	
	$81,977 77	
	391,097 78	
	$473,075 55	

ASSETS GOOD.

Residence.	Name.	Remarks.	Gold.	Amount.
Troy, N. Y	Squires, Sherry & G	Bill due M'ch 23, '68		$792 28
Chicago, Ill	Geo. C. Cook & Co	" Dec. 17, '67		173 10
Detroit, Mich	Moore, Foote & Co	" M'ch 20, '68		1,929 07
Chicago, Ill	Geo. W. Flanders & Co	" Dec. 2, '67		874 31
N. York, N. Y	O. C. Hatch & Co	Loan due 20 Nov., '67		575 00
" "	M'r's H. Barker	Acc't due 20 Nov., '67		3,791 00
" "	M'r's S. M. Cushman	Bill due 20 "		63 98
" "	John B. Keyes	" 20 "		25 30
" "	Martin Gillett	" 20 "		20 16
Rome, "	A. Ethridge & Co	" 20 "		388 32
Rochester, "	Moore & Cole	" 20 "		162 24
N. York, "	M'r's Dorothy Place	Acc't due 20 "		230 00
" "	J. K. Place, in trust	" 20 "		450 58
" "	R. estate, Milwaukee	" 20 "		556 82
Nebraska, Neb	L. Frost & Co	" 20 "		172 24
Cincinnati, O	Gibson, Early & Co	" 15 "		2,471 91
Baltimore, M'd	J. W. Fitts & Co	" 16 Jan., '68		1,092 61
N. York, N. Y	Cha's Stoughton	" 12 Dec., '67		200 00
" "	N. Sherwood	" 8 "		531 94
" "	J. Gould & Son	" 15 Feb., '67		1,907 44
	A. D. Grieff	" 14 Dec., '67		12 67
S't Louis, Mo	Forbes, Bro. & White	" 1 M'ch '68		1,217 95
N. York, N. Y	John Watson	" 28 Nov., '67		10,917 61
" "	Moore & Hill	" 24 Dec., '67		331 21
N. Albany, Ind	John Mann	" 8 Jan., '68		592 38
566 S't Louis, Mo	Neise, Knoblauch & Co	" 12 Nov., '67		$381 51
Chicago, Ll	W. J. Quan	" Dec., '67		592 38
Marshall, Mich	Smith & Ellis	" 9 Jan., '68		360 67
Chicago, Ill	Corbin, May & Jones	" Dec., '67		615 80
" "	Geo. W. King & Co	" 29 Dec., '67		509 80
N. York, N. Y	Fitts, Austin & Turner	" 5 "		407 10
" "	Hoppock & Greenwood	" 12 "		601 75
" "	W'm Perry	" 20 Nov., '67		34 20
" "	John Duncklee	" 20 Dec., '67		457 04
" "	J. Benedict	" 16 July '67		600 00
" "	C. C. Parks	" 26 Feb., '68		131 25
Portland, M'e	Brown Bro's & Co	" 20 Nov., '67		345 40
N. York, N. Y	Lynch, Fling & Drew	" 20 "		487 14
" "	F. H. Bangs	" 20 "		42 50
" "	G. F. Gilman	" 9 Jan., '68	$43 78	15,432 31
	T. Y. Kelley & Co	" 11 Dec., '67	577 38	86 21
Quebec, C. E	J. Lemesurrier & Co	" 20 Nov., '67	1,780 00	
Boston, Mass	Carr, C. & Raymond	" 16 Dec., '67	1,246 17	

N. York, N. Y.	Sturges, Arnold & Co	" 20 Nov., '67	1,447 99	
" "	J. Cassidy & Co	" 22 Jan., '68	548 42	
		Amounts forward	$5,623 74	$51,408 16
" "	Atlantic Mutual Ins	Scrip, 1865, 1866, 1867		2,580 00
" "	Metropolitan B'k	60 shares, $100 value		7,500 00
" "	J. Dickie	Loan due 20 Nov., '67		79 00
St Louis, Mo	Joel White	" 1 Jan., '67		165 00
Buffalo, N. Y	Bond and mortgage	Due 1 May, 1868		158 33
Saginaw, Mich	Real estate	Pine land		4,480 00
" "	Bonds and mortgages	Sundries		5,458 00
567 N. York, N. Y	J. M. Moore	Notes due 1 May and 1 Nov., '68		$1,000 00
" "	Moore, Jenkins & Co	" 21 Jan. and 12 M'ch, '68		790 83
St Louis, Mo	Woodward & Gareshe	" 8 Jan., '68		1,330 94
Memphis, Tenn	Galbreath, Stewart & Co	" 11 " and 10 Feb., '68		4,098 40
N. York, N. Y	Sparkman P. & King	Note 12 mo., 1 Oct., '67, with int		10,000 00
" "	"	" 18 " "		10,000 00
" "	"	" 21 " "		10,000 00
" "	"	" 29 " "		10,000 00
" "	"	" 8 Nov., '67, "		10,000 00
" "	"	" 18 " "		12,039 24
		Amounts due in gold, value at 133 1-3		7,498 32
		Total		$148,586 22

ASSETS DOUBTFUL.

" "	C. A. Lawton	Acc't due	38 80	
Nebraska, Neb	L. Frost & Co	Special capital	5,000 00	3,000 00
N. York, N. Y	A. G. Sherman	Acc't due	65 00	
" "	G. C. Von Usla	" 20th Nov., '67	445 00	400 00
" "	Place & Prichard	Loan	1,000 00	100 00
" "	C. H. Denison	"	425 00	100 00
" "	E. L. Prentiss	"	50 00	
" "	Groom Bro's & Co	Acc't due 31st Dec., '66	1,207 71	120 00
" "	Sackett, Belcher & Co	" 31st "	8,104 25	500 00
" "	M. A. Van Benschoten	"	979 41	100 00
" "	M. C. Van Benschoten	"	1,000 00	500 00
" "	S. Van Benschoten & Co	"	14,887 76	2,500 00
568 Chicago, Ill	Williams, Young & Kass	"	$1,337 77	$100 00
New Orleans, La	R. Bleakley & Co	"	1,576 76	100 00
N. York, N. Y	J. A. Cooper & Co	With sheriff at Boston	2,800 00	2,500 00
" "	Lawton & Co	Note due 21st Feb., '68	1,792 80	350 00
" "	"	" 26th "	1,792 81	350 00
" "	"	" 24 M'ch, '68	1,992 80	350 00
" "	O. A. Goold	" 22d Feb., "	2,491 44	1,245 72
" "	"	" 18th "	1,041 44	520 72
" "	"	" 13th Dec., '67	2,709 95	1,354 97
" "	Bentley, Burton & Co	" 15th "	1,208 04	900 00

Exhibit 49—Continued.

ASSETS DOUBTFUL—Continued.

Residence.	Name.	Remarks.	Gold.	Amount.
" "	"	" 8th "	4,000 00	3,000 00
" "	"	" 4th "	5,000 00	4,000 00
St Louis, Mo	Carver, Wendover & Co	" 31st "	6,960 50	3,450 00
Pittsburgh, Pa	Shields Boucher	" 26th Nov., '67	741 90	250 00
N. York, N. Y.	McIlvain & Young	Note Geo. Nichols, due 19th June, 1857, end. by them	488 56	
" "	Titus, Smyth & Co	Acc't due	2,503 40	
" "	H. W. Hubbell	"	138 03*	
Shanghai	C. Gutschow & Co	Loss on tea	20,693 51*	
Yokohama	Gutschow & Co	"	33,047 14*	
	Premium at 33⅓ on $53,878.68 gold		17,959 56	
				$25,791 41

Exhibit 50.

	Name.	Residence.	D'R.	C'R.
1.	Ja's K. Place, loan acc't	New York	$33,231 95	
4.	Susan A. Place	New York. *Charge 30,030. Credit S. P. & King 20,000. Stables 10,000		$39,309 00
5.	Ja's K. Place, in trust	New York	450 58	
6.	Dorothy Place	"	299 07	
569 7.	Mrs. H. Barker	New York	$3,791 00	
9.	Isaac Stevens	"		$6 60
10.	Real estate, J. K. Place, in trust	Milwaukee, Wis	656 82	
18.	Manufacturers' National Bank	New York		25,699 28
19.	Peter Schersten	"	2,758 00	
20.	R. Ten Broeck	"		917 58
22.	Henry Baldwin	"	366 60	
24.	Robert Reade	"		10,361 24
36.	George Wells, j'r	"		2,523 33
55.	Jos. Benedict	"	600 00	
57.	John Caswell & Co	"		67,189 50
58.	O. C. Hatch & Co	"	571 12	
75.	Maitland, Phelps & Co	"		48,019 00
78.	G. C. Von Usla	"	445 00	
80.	Fletcher Place	"	56 38	
104.	Joseph S. Earker	Sing Sing, N. Y		24,589 28
106.	Titus, Smyth & Co	New York	2,503 40	

118.	Silkman & Ten Broeck	"			1,032 02
120.	Lewis F. Randolph	"			35,000 00
121.	Duncan, Sherman & Co	"			45,000 00
122.	O. W. F. Randolph	"			31,985 28
	Carried forward			$42,801 92	$334,110 71
124.	Charles Place	"		11,299 41	
131.	H. D. Van Orden	"			7,708 00
136.	M'r's Eph'm B. Place	"			53,518 00
143.	H. N. Titus	Yonkers, N. Y., N. P. and Lon. Gold		787 50	
144.	C. C. Parks	New York		131 15	
	162. Brown Bro's & Co	"			84,645 60
560	166. The Place Sugar Refinery	New York		$149,125 25	
	176. " "	"			$133,400 00
278.	Joel White	S't Louis, Mo		165 00	
281.	James Dickie	New York		79 00	
154.	Sparkman, Place & King	"		61,966 49	
	1. Stock or capital, J. K. Place				600,000 00
	1. " " J. D. Sparkman				200,000 00
	4. Ja's K. Place	"		760,597 35	
	11. J. D. Sparkman	"		83,313 90	
	14. Merchandise	"		244,012 20	
	18. Ephraim B. Place	"		19,420 25	
128.	Account closed. U. S. 5 20 bonds				
	32. Bills receivable			14,521 90	
	38. Bills payable	"			402,178 11
	41. Real estate, 132 Front st	"		120,000 00	
	43. Bond and mortgage	Buffalo, N. Y		109 32	
	44. Real estate, Saginaw Co	Michigan		1,215 39	
	45. " " "	"			1,958 47
	Carried forward			$1,509,846 13	$1,877,527 89
	46. Beach, Moores & Co	Saginaw, Mich		1,880 30	
	47. "Sparkman, Place & King" Ass'n	New York	J. K. P. (in pencil.)	31,807 50	
	48. Real estate	Binghamton	do. do.	3,949 00	
	49. Humboldt Insurance Co	New York	do. do.	1,488 00	
	52. Metropolitan National Bank	"		5,603 00	
	53. Marsh, Coe & Wallis	"		38,351 60	
	54. Atlantic Mutual Insurance Co	"		28,218 81	
	61. Profit and loss, 1865				3,407 76
	66. Real estate, West 43d street	"		19,298 50	
	67. " " "	"		19,298 50	
571	67. T. T. Sheffield	New York			$1,499 12
	69. John B. Morgan	"			
	73. G. G. Haven, receiver	"		1,372 37	
	75. Dan'l B. Alger	"		90 00	
	77. W'm H. Gibson	"			128 21
	78. Ja's M. Brown, receiver	"		20,829 50	
	87. Corn Exchange Insurance Co	"	J. K. P. (in pencil.)	4,719 78	
	93. Profit and loss, 1867			264,076 81	
	102. Profit and loss, 1866				4,280 00

* This is in pencil in the original. † This item is erased.

EXHIBIT 50—Continued.

	Name.	Residence.	D'R.	C'R.
104.	Profit and loss, 1860			
105.	Profit and loss, 1858			
106.	Profit and loss, 1850			30 00
115.	H. N. Titus			350 00
132.	M'r's E. B. Place, bond & mortgage	Yonkers, N. Y		122 93
133.	J. P. Giraud, j'r, ex'r	New York		248 03
135.	McIlvaine & Young	"		81,351 00
136.	Sundry creditors	"		41,400 00
136.	Sundry creditors	"		16 33
		"		6,577 99
	Carried forward			32 45
139.	Suspense accounts	New York	$1,950,529 80	$2,016,971 71
141.	Davenport & Son	"	6,647 93	
146.	Smith & Ellis	Marshall, Mich	882 50	
176.	E. Levering & Co	Baltimore, M'd	360 67	
196.	Weston & Gray	New York		
200.				7 70
209.	Corbin, May & Jones	Chicago, Ill		93,042 18
213.	M'r's M. C. Van Benschoten	New York		
	215. A. S. Anderson	Buffalo, N. Y	565 90	
572	222. J. L. Phipps & Co	New York	1,000 00	
	227. Geo. C. Cook & Co	Chicago, Ill		32,349 00
230.	L. Frost & Co	Nebraska, Neb		$105,075 25
241.	Miller, Greiner & Co	Buffalo, N. Y	$173 10	
245.	John Bertram	Salem, Mass	172 24	
251.	D. J. & Z. S. Ely & Co	New York		3,070 48
269.	Moore, Foote & Co	Detroit, Mich	3,392 30	11,524 52
285.	W. F. Weld & Co	Boston, Mass	1,929 06	
289.	Bunge, Burlage & Co	New York	304 38	
298.	Barrett, Gossitt & Co	Chicago, Ill		5,600 00
302.	Moore & Hill	New York		583 40
313.	G. W. Flanders & Co	Chicago, Ill	2,735 82	
317.	Geo. W. King & Co	"	331 21	
322.	D. C. Ripley & Co		752 79	
327.	Comegys, Brady Co	New York	502 80	
		Baltimore, M'd	1,528 16	
	Carried forward		3,106 54	
340.	Gordon, McMillan & Co	Cleveland, Ohio	$1,871,522 90	$2,271,616 24
343.	Neise, Knoblauch & Co	St Louis	2,560 45	
345.	Alfred Arone	New York	1,323 67	
358.	Whitaker, Harmon & Co	Chicago, Ill		
365.	Sturges, Arnold & Co	New York		163 55
367.	Carver, Wendover & Co	St Louis, Mo	2,883 08	
378.	Hoppock & Greenwood	New York	1,447 99	
386.	Susquehanna Seminary	Binghamton	6,900 50	
			601 75	
			12,992 14	

384.	Squires, Sherry & Galusha	Troy, N. Y.	E. L. Fancher and others (in pencil)	792 28	
394.	W. M. Hoyt & Co	Chicago, Ill			188 70
395.	Geo. T. Meyer	Quincy, Ill		1,438 71	
405.	Reid, Murdock & Fischer	Chicago, Ill			112 67
410.	Fitts, Austin & Turner	New York		407 10	
	411. Geo. F. Gilman	"		15,476 11	
573	421. Gibson, Early & Co	Cincinnati, O		2,471 91	
	425. T. Y. Kelly & Co	New York		858 69	
426.	W. J. Quan	Chicago, Ill		592 38	
428.	Place Sugar Refinery stock			66,700 00	
428.	" "			66,700 00	
429.	E. C. Ely & Co	Philadelphia, P'a		908 75	
431.	Place & Turlay	New York			11,297 69
449.	H. W. Hubbell	"		138 03	
450.	Lynch, Flug & Drew	Portland, M'e	{ $297 83 / 189 31 }	487 14	
450.	H. F. Davis & Co	Washington, D. C		321 85	
451.	Carney, Fenton & Co	Leavenworth		1,506 58	
"	Wiltshire, Huston & Co	Cincinnati, O		24 59	
"	John Dunckles	Boston, Mass		457 04	
"	Broadwell, Corwin & Co	Easton, P'a		4 30	
"	D'r Henkle	New York		11 85	
"	M. Gillet	"		20 16	
"	J. B. Keys	"		25 30	
"	W. M. Perry	"		34 20	
"	Cha's Stoughton	"		200 00	
"	S. S. Wyckoff & Co	"		653 40	
"	Moore & Cole	Rochester, N. Y		102 24	
"	N. Sherwood	New York		531 94	
"	C. A. Lawton	"		38 80	
"	R. L. Leggett & Co	"		355 11	
"	M'r's Cushman	"		28 27	
"	F. H. Bangs	"		42 50	
"	Sully Gillet	"		7 14	
	432. Sundry accounts			3,385 99	
574	501. Simon De Visser	New York			2 45
	502. A. S. Gaylord	Saginaw, Mich			274 48
519.	Van Zandt Bro's	Rochester, N. Y			4 61
530.	Alford, Talbot & Co	Indianapolis		1,358 47	
540.	Meeker & Barker	Chicago, Ill		1,495 84	
544.	John Watson	New York		9,917 61	
554.	S. Van Benschoten & Co	"		14,787 76	
	Amount forward			$2,192,574 52	$2,283,666 39
556.	Cha's Gutschow & Co	Shanghai, China		20,693 51	
559.	Heineman & Patson	New York			47,468 34
560.	J. W. Fitts & Co	Baltimore, M'd		1,092 61	
565.	Jos. H. Merrill & Co	Ottumwa, Iowa		830 80	
566.	John Mann	New Albany, Ind		1,665 55	
573.	Warren, Hewett & Sweet	Milwaukee		2,129 86	
588.	Charles Luling & Co	New York			600 00
699.	J. Gould & Sons	"		1,907 44	

EXHIBIT 50—Continued.

	Name.	Residence.	D'r.	C'r.
600.	Henry Eyre	"		129 50
631.	Thomas M. Kerr	Philadelphia	617 70	
634.	Carr, Chase & Raymond	Boston	1,246 17	
639.	Kaufman & Jacobs	Kendallville, Ind	72	
645.	John A. Cooper & Co	New York	2,785 72	
646.	A. D. Grieff	"	12 67	
653.	A. Engelhardt & Co	Louisville	932 12	
659.	B. Reilly, deputy sheriff	New York	490 00	
668.	Warrington, McVeigh & Co	Baltimore	452 65	
673.	W. J. & J. Clarke	Lexington, K'y	1,584 75	
676.	E. L. Roberts	New York		5,600 00
684.	W. J. McCahan & Co	Philadelphia		22 00
686.	John Lemesurier & Co	Quebec	1,647 34	
	690. Forbes Bro's & White	S't Louis	1,217 95	
575	691. William Heffernan	Louisville		229 19
	691. Gutschow & Co	Yokohama, Japan	33,047 14	
	Carried forward		$2,264,829 22	$2,337,709 42
697.	Marsh, Coe & Wallis	New York	100 00	
719.	Place, Trigg & Co	"		493 12
781.	Millerd & Cool	"	329 57	
787.	A. Etheridge & Co	Rome, N. Y	388 42	
793.	Benjamin Berry	Baltimore, M'd		84 62
800.	Place & Turlay, special No. 1			2,983 00
"	Place & Turlay, special No. 2		68,683 30	
"	L. Frost & Co., special		6,738 00	
	Cash balance		521 82	
			$2,341,690 03	$2,341,270 16
	Debits larger	$419 87		

576 EXHIBIT 51.

				D'R.
Nov. 22	.....	Balance, currency		$9,330 89
	.....	Balance, gold		*950 91
	17	Interest, Smith & Bro's	$2 26	
		" J. Stephens & Co	3 86	
				6 12
	411	Geo. F. Gilman, account		1,680 00
" 23	14	Mdse. J. D. Stodard		12 50
	451	Carney, Fenelon & Co., account		1,200 00
	686	John Lemesurier & Co		*124 75
" 25	425	J. Y. Kelly & Co		*942 30
	505	Robert Seaman		1,181 40
	180	Ross, Roberts & Co		735 28
	171	Inbusch Bro's		3,164 55
" 26	642	Moale & Sanders		426 20
	171	Inbusch Bro's		3,779 71
	565	J. H. Merrill & Co		910 61
	364	J. Stephens & Co		310 84
	28	U. S. five-twenty bonds, proceeds sale $47,000		50,564 00
	176	Gold call loans, currency for 525,000		
		gold ret'd	$748,175 00	
		60,000 gold loaned	84,600 00	
				832,775 00
27	452	W'm Dolton & Co		154 83
	451	J. E. Raymond & Co		372 00
	"	Baskerville, Sherman & Co		379 31
	545	D. Wagstaff		382 08
	694	Fischer & Thurber		560 20
	544	John Watson		1,000 00
	411	George F. Gilman		3,020 80
	112	J. K. & E. B. Place, No. 3, Lanyon, Smith & Co		37 85
29	451	H. Brewster & Co		1,467 22
	450	Timothy Gay & Co		616 74
	72	L. W. Burritt, j'r		100 35
	451	Ainsworth & Northrup		309 31
	598	Catherwood & Co		847 24
	451	Huntington & Dorn		573 12
	"	Ja's Colles, j'r, & Co		30 08
	"	Gross, March & Co		488 56
	178	Bailey, Clark & Chapin		1,204 32
	450	J. Stiner		*613 00
	256	Premium on specie, $613 gold sold		239 07
30	451	R. Park & Co		264 96
	220	Lawrence & Chambers		1,246 00
	545	D. Wagstaff		192 96
	28	U. S. five-twenty bonds, proceeds sale $45,000		48,544 49
577				
	176	Gold call loans R		*35,000 00
26	452	Bank of Commerce		2,012 27
				$1,007,751 82
Dec. 2	171	Inbusch Bro's		14 95
	451	T. H. Morrison		35 42
	615	Terry, Wheat & McChesney		181 55
	451	W. H. Benedict		45 93
	563	Bonnell & Adams		686 34
	451	J. Stiner		784 29
	"	Gulick & Van Kleeck		284 49
3	272	J. S. Dilworth & Co		660 04
	220	Lawrence & Chambers		10 40
	452	Mather Bro's		307 68
	273	Lyon, Richards & Co		337 77
	679	J. W. Palmer & Sons		375 25
	453	R. Bogert		8 06
	451	R. F. Pickert		721 54
4	452	Winslow & Myrick		744 70

EXHIBIT 51—Continued.

	451	Huntington & Dorn		532 35
	278	Hoppock & Greenwood		853 06
	415	L. Schepp		305 68
	451	Rowe & Burgess		191 04
	"	C. Stoughton		292 61
	452	Cassidy & Co		672 53
	"	Martin & Way		65 18
	"	W. H. Schieffelin & Co		*22 42
	523	McKesson & Robbins		*216 35
5	578	Clark & Boggs		*1,046 93
	280	Townsend, Clinch & Dike		*493 10
	451	Husted, Wetmore & Titus		512 40
	"	M'r's S. H. Sterling		6 75
	378	Hoppock & Greenwood		1,522 56
	452	Baskerville, Sherman & Co.		264 18
	591	W'm Hertzell & Co.		360 90
	452	M'r Bunn		509 20
	353	H. K. Thurber & Co		79 09
	32	B. Recle, Charles Moore & Co		*1,037 76
	593	Wainwright & Co		*1,344 18
6	185	The United States		5,711 51
	639	Kaufman & Jacobs		142 46
	661	Williams & Crosby		1,334 87
	452	Carpenter & Willets		179 04
7	451	Broadwell Corwin & Co		139 03
	"	Marks & Hooper		143 10
	"	Cary, Brainerd & Co		141 52
10	302	Moore & Hill		22 62
	9	Isaac Stevens		1,748 10
	690	Forbes, Bro. & White		71 55
57 11	32	B. Recle, C. Moore & Co.		*416 79
	190	Moore, Jenkins & Co		494 21
				$1,033,823 30
11	450	A. J. Brand		840 54
	"	Parker & Caldwell		296 89
	451	F. Schlessinger & Son		899 46
	450	Tute, Morey & Paddock		754 57
	451	Wiltshire, Huston & Co		4,263 68
	679	J. W. Palmer & Sons		827 51
14	302	Moore & Hill		*233 35
	450	J. S. Recknagel		*13 00
	17	Interest, Newcomb, B. & Co		*8 00
16	590	Henry Chapman		100 00
	451	R. F. Pickert		139 62
	259	Edwards, Townsend & Co		331 50
	451	Shaw Brothers		121 09
	452	William Dolton & Co		355 83
17	451	William Laverack		213 63
	14	Merchandise, refund duty		*270 20
20	630	Wason, Pierce & Co		*220 89
	596	Erfort & Petring		316 00
	336	E. Stimson & Co		267 16
	451	W. H. Benedict		1 26
	"	" "		39 47
	450	Buskitt & Hanna		319 84
	385	Garrett & Martin		2 94
	188	Tweed & Andrews		3,265 39
21	669	Waldron, Wightman & Co		160 94
	451	C. Stoughton		829 45
	450	T. Devin & Son		721 52
23	799	Claghorn & Cunningham		709 65
	269	Moore, Foote & Co.		117 63
		Premium on specie:		
		$589 35 sold	$198 79	
		694.74	245 76	
				444 55

EXHIBIT 51—Continued.

	22	22	Henry Baldwin, diff. exchanging $200 U. S. 7.30s for 5-20s		12 40
			Moore, Jenkins & Co., entered before		
					$1,050,827 26
					C'R.
Nov.	23	57	John Caswell & Co., ac't loan		$3,400 00
		14	Mdse. paid duties as follows:		
			25 b'gs coffee, ex Acme, 1,250 @ 5	*62 50	
579	23		10 h'f-c. tea, ex Glenclune, 340 @ 25	*85 00	
			10 h'f-c. tea, ex Fychow, 560 @ 25	*140 00	
			10 h'f-c. tea, ex S. Russell, 400 @ 25	*100 00	
					*387 50
"	25	57	John Caswell, ac't loan		3,741 00
		14	M'd'se, paid duties as follows:		
			15 h'f-c. tea, ex S. Russell, 600 @ 25	*150 00	
			35 h'f-c. tea, ex Glenclune, 1,190 @ 25	*297 50	
			75 bags pepper, ex G. Canning, 6,750 @ 15	*1,012 50	
					*1,460 00
	26	17	Interest L. Von Hoffman & Co	$28 59	
			Interest Moale & Sanders	12 77	
					41 36
		135	National Park Bank, interest, C'r		128 83
		75	Daniel B. Alger, account		50 00
		3	James K. Place, "		50 00
		25	Expense, labor, postage, &c		60 30
		659	B. Reilly, deputy sheriff		370 00
		"	" " " "		*120 00
		256	Premium on specie, bought 25th:		
			$525,000 @ 41, to close gold ac	$215,250 00	
			35,000 @ 41, for L. V. H. & Co	14,350 00	
			35,000 @ 41, for D. S't Amant	14,350 00	
			25,000 @ 41, for Mora & Arengo	10,250 00	
					254,200 00
		241	Charges on borrowed gold for commissions and brokerages		1,081 25
		134	L. Von Hoffman and Co., r'd		*35,000 00
		177	Gold call-loans to balance, r'd		*525,000 00
		"	" " for gold (bought to return D. S't Amant and Mora & Arengo) which was lent		*60,000 00
		53	Marsh, Coe & Wallis, paid them	14,000 00	
		"	" " " "	7,000 00	
					21,000 00
		136	M. S. Driggs & Co		543 85
		"	Lawrence & Pegg		117 29
Nov.	27	.....	A. H. Wallis, paid		.....
		53	Marsh, Coe & Wallis, paid them		2,848 82
		"	" " "	$3,148 15	
			" " "	2,184 06	
					5,332 21
580					
Nov.	27	135	S. S. Curtis, brokerage		8 46
		256	Prem. on specie bought, 4,408.65 @ 39¼ and brokerage		1,731 77
		14	Merch'd'se duty 130 bags coffee, ex Tamno, 19,373 @ 5		*968 65
		75	Maitland, Phelps & Co., acc't loan		*3,440 00
	30	135	Kirkland & Gillett		39 19
		52	Marsh, Coe & Wallis paid them		1,703 92
		141	D. S't Amant, r'd		*35,256 66
		14	Interest paid him		*72 92
					$958,153 98

EXHIBIT 51—Continued.

	30	176	Gold call-loans, currency, for $35,000, gold-loan returned		49,350 00
Dec.	2	53	Marsh, Coe & Wallis, paid them	$408 49	
			" " "	1,846 43	
					2,254 92
		80	Charles P. Sparkman		162 50
		18	E. P. Place, for stamps		52 00
		25	Expense porters	$59 00	
			Telegrams, postage, &c	7 25	
			Architectural iron-works	6 50	
					72 75
		4	James K. Place		512 40
		85	Henry Groth, to 1st Dec		30 00
		116	Charles Deuchland, to 1st Dec		27 50
		77	William H. Gibson		50 00
		72	L. W. Burritt, j'r		50 00
	6	256	Premium on specie bought, $9,514.98 @ 37⅝ 1-32		3,582 98
		159	Kidder, Peabody & Co., amount due on loan, sterling paid Trevor & C		*12,356 54
	9	77	W. H. Gibson		50 00
		72	L. W. Burritt, j'r		50 00
	10	116	C. Deuchland, to 15th Dec		27 50
		85	Henry Groth, "		30 00
		25	Expense express, paper boxes, &c	$13 00	
			Locksmith	13 00	
			Porter, Tho's Nettleship, in full	145 00	
					171 00
			J. K. Place		500 00
		11	J. D. Sparkman		500 00
		57	John Caswell & Co., account loan		940 50
		14	M'd'se, I. Stiner, ded'n bill 2d Nov	$4 99	
			" C. Stoughton, bill 10th "	10 83	
					15 82
					$1,028,940 39
		53	Marsh, Coe & Wallis, paid them		5,310 96
581					
		14	Merchandise, duty, 65 half-ch. tea, ex Chailenge, 3,663 @ 25		*915 75
		11	J. D. Sparkman		5,000 00
		4	J. K. Place		2,184 17
		72	L. W. Burritt, j'r		50 00
		77	William H. Gibson		50 00
		25	Expense telegrams, cartage, postage, &c		23 19
	21	53	Marsh, Coe & Wallis, p'd them for	$4,000 00	
			" " "	2,017 68	
					6,017 68
		136	R. S. Place, insurance, per bill		420 42
	23	70	U. S. taxes on November sales		314 00
		4	J. K. Place, p'r I. Stevens, paid M'r's D. Place		65 00
		18	E. B. Place, p'r I. Stevens, paid M'r's D. Place		65 00
		124	Charles Place, p'r I. Stevens, paid M'r's D. Place		65 00
		115	H. N. Titus, to 1st January		500 00
		25	Expense, fees	$40 00	
			" postage, labor, &c	13 70	
					53 70
		77	W. H. Gibson		50 00
		72	L. W. Burritt, j'r., to 1st January		59 17
		14	Barker Place, " "		41 67
		114	F. H. Bangs, " "		34 34
		82	George F. Gibson, " "		50 00
		129	Sally Gillet, " "		16 67
		80	C. P. Sparkman, " "		12 50

EXHIBIT 51—Continued.

121	F. W. Ballard,	"	"	8 33
116	C. Denchland,	"	"	27 50
85	Henry Groth,	"	"	30 00
				$1,050,305 44

The items marked (*) in the above Exhibits 48, 49, 50, 51 are in red ink in the originals, and indicate transactions in which the amounts are stated in gold.

Q. 591. State in whose handwriting they are, and on what occasion they were got up, and for what purpose they were used.

A. Exhibit AA is a statement of the liabilities and assets of James K. Place & Co. in my handwriting, which were the basis of a statement made at the first meeting of creditors.

Q. 592. Do you say this paper was used at the first meeting of creditors?

582 A. Yes, sir; I think this paper was used at the first meeting of creditors. Exhibit B B is a trial-balance, showing the balances as they stood in the ledger at that time; a portion of it is in my handwriting and a portion of it is in the handwriting of John B. Morgan.

Q. 593. Embracing the assets and liabilities?

A. Yes, sir.

Q. 594. In which column are the assets and which the liabilities — which column of figures?

A. The left-hand column of dollars and cents embraces the assets, the right-hand column on each page the liabilities.

Q. 595. Look at the words on the second line opposite the words Susan A. Place, in pencil, as follows: "Charge $30,000, and credit S. P. & King $20,000; stable, $10,000."

A. I should say it was in the handwriting of James K. Place.

Q. 596. Look at the words "P. & L. on gold," opposite the item of "H. N. Titus, Yonkers, N. Y., $787.50," and state in whose handwriting are those penciled words.

A. James K. Place, I should say.

Q. 597. Look at the initials "J. K. P.," opposite the items "Real estate, Binghamton, $3,649;" "Humboldt Insurance, New York, $1,488;" "Metropolitan National Bank, New York, $5,603;" "Corn Exchange Insurance Co., $4,719.78," and state in whose handwriting they are.

A. The handwriting of J. K. Place.

Q. 598. Look at the words "E. L. Fancher and others," opposite the words "Susquehanna Seminary, Binghamton, $12,992.42," and state in whose handwriting are those words.

A. James K. Place.

Q. 599. When was this Exhibit B B gotten up, and what was it used for?

A. I think it was gotten up about the first of February, 1868; it was a part of the papers that the committee appointed at the meeting of creditors requested should be made.

Q. 600. Was it shown to the creditors, or to their committee, or which?

A. I presume it was Mr. Morgan took charge of the work about the first of February, and I think he handed it over to them.

Q. 601. Were you employed by the committee at all?

A. Yes, sir.

Q. 602. For what purpose?

A. To do this work.

Q. 603. And paid by them?

A. Yes, sir.

Q. 604. If so, how much?

A. $125.

583 Q. 605. Look at Exhibit C C, and state what it is; in whose handwriting it is; and what it was got up for, and what it was used for.

A. It is a copy of the receipts and payments of cash from the 22d day of November to the 23d of December, inclusive.

Q. 606. In whose handwriting?

A. I think it is all in my handwriting.

Q. 607. What was it used for?

A. It was a part of the papers which were made at the request of the committee appointed at the first meeting of creditors.

Q. 608. What did the committee request you to furnish them?

A. The books were in an incomplete state at the time the committee was appointed, and they wished some one to write the books up; not to write the entries that were requested to be made on the books, but to make them up on papers and enter the figures in the ledger in pencil, so that they might see what the state of the books were at that time.

Q. 609. Look at the items among the payments of cash appearing on Exhibit C C, "B. Reilly, deputy sheriff, $370.00;" "B. Reilly, deputy sheriff, gold, $120.00;" and state what those payments were made for.

A. That was the amount of cash that was in the cash-drawer of James K. Place & Co. at the time the sheriff levied on the estate of James K. Place; he took possession of it; he levied on the interest of James K. Place under an attachment against him alone, and he took possession of this cash.

Q. 610. Did the assignees ever get it?

A. No, sir.

Q. 611. Why does not this contain the transactions of November 19, 20, 21, and 22?

A. I think they appeared on the cash-book of James K. Place & Co.; their regular cash-book.

Q. 612. Look at Exhibit Z, and state what it is, and in whose handwriting, and what it was got up and used for.

A. It is a series of journal-entries, which is a part of the work that was requested to be made by the committee appointed at the first meeting of creditors; some of it is in my handwriting and some of it in the handwriting of John B. Morgan.

Q. 613. What was the total value of the assets that came to the hands of the assignees, and the total amount of liabilities of James K.
584 Place & Co.; state the minimum and maximum value of the assets?

A. I think the nominal value of the assets were about $400,000, or thereabouts, and the liabilities were about $1,100,000; in addition to which there was about $280,000 or $300,000 of liability of endorsements of notes of the Place Sugar Refinery.

Q. 614. What was the actual value of the assets?

A. I could not say; I should presume, though, somewhere in the neighborhood of $300,000 or $350,000.

Q. 615. How much did the assignees realize in cash up to Sept., 1859?

A. I don't remember the total.

Q. 616. About?

A. I could not state, because there were payments of duties and counsel-fees, commissions, and things of that kind; I could only give the amount which was turned over to the receiver.

Q. 617. How much was that?

A. From $110,000 to $120,000 in money.

Q. 618. Was there merchandise on hand to the value of $244,000?

A. No, sir; that is, not that came into our possession.

Q. 619. Including what was under attachment by Randolph, was there $244,000 worth of merchandise?

A. There may have been about $200,000, including the merchandise that was held by John Caswell & Co. and Maitland, Phelps & Co.

Q. 620. Under hypothecation?

A. Yes, sir.

Q. 621. In your estimate of the assets, have you or not included the Fifth avenue property or the Front street property?

A. I have not.

Q. 622. The property in 43rd street which had formerly stood in the name of James K. Place?

A. No, sir.

Q. 523. Or the stock in Sparkman, Place & King, which you charged to M'r's Place, or the 40 U. S. Government bonds, or any of them, and if so, which have you included?

A. No, sir; I have not included any of them.

Q. 624. Did or not the aggregate actual value of the property which came under the control of the assignees equal the aggregate value of the 5th avenue property, the 43rd street property which had stood in the name of James K. Place, the Sparkman, Place & King stock above referred to, and the 40 Government bonds?

A. I should say it exceeded it.

585 Q. 625. The property which came into the hands of the assignee exceeded the aggregate value of the other items?

A. Yes, sir.

Q. 626. By the sum of about how much?

A. Well, I should say about $150,000.

Q. 627. Then you think the aggregate value of the property which came into the hands of the assignees was about $330,000?

A. Somewhere in that neighborhood, I should think.

Q. 628. Besides the $110,000 or $120,000 in money, which you say you turned over to the receiver, what was the value of the other property which you turned over to him?

A. I should think somewhere in the neighborhood of $200,000.

Q. 629. Besides the money?

A. Yes, sir.

Q. 630. State the particulars of that $200,000.

A. There was $50,000 due from Sparkman, Place & King on the notes due to James K. Place & Co., and about $20,000 due to James D. Sparkman; and say about $74,000 of notes of Sparkman, Place & King, and about $20,000 of James D. Sparkman's; a bond and mortgage for $28,000 on property upon Jeffrey street, I think it is, and about $40,000 of merchandize; and I should think the open accounts should aggregate somewhere in the neighborhood of 50,000 or 60,000 dollars.

Q. 631. Of these open accounts, what was the value?

A. In addition to the open accounts which I have estimated, there is also due from the Sugar Place Refinery between $50,000 and $60,000; I could not estimate what the value was.

Q. 632. How much of the property which you have enumerated was the separate property of James D. Sparkman?

A. About $68,000 or $70,000.

Q. 623. Had you anything to do with making up an inventory of the property of your assignors to be filed in the county clerk's office or for any other purpose?

A. I think I drew off the particulars of some of the liabilities and the assets of James K. Place & Co., and I think that the schedules were made up by Marsh, Coe and Wallis.

Q. 634. To what extent did you embrace in the paper made up by you the assets?

A. I think it embraced the accounts which were due to James K. Place & Co., and some of the securities; I think it enumerated the Metropolitan Bank stock.

586 Q. 635. Did you or not embrace in that all the property which you and M'r Sheffield intended to claim as assignees?

A. I don't know how I should answer that, hardly.

Q. 636. Did you or not embrace any property which you and M'r Sheffield intended to claim as assignees; did it embrace all the joint property which you and M'r Sheffield intended to claim as assignees?

A. It embraced all that I knew of being the property of the assignors.

Q. 637. Did it or not embrace all that you intended to claim as assignees?

A. I suppose not, because there might be something or other that, if it belonged to the estate, that we ought to claim it, if it wasn't on the paper.

Q. 638. Did you know of anything which you intended to claim as assignees, but which you hadn't put down on that paper; and, if so, state what it was?

A. Why, I can say this property at the corner of 5th avenue and 47th street was not put down, but if the estate was entitled to any portion of it we expected to claim it.

Q. 639. Did you or not intend to claim, upon making out that paper, any part of that property, as assignees?

A. I don't think it entered my mind at that time.

Q. 640. Did you or not have any intention on that subject?

A. I could not say now.

Q. 641. What is the reason you did not embrace it in the paper?

A. Because it did not stand open on the books.

Q. Do you now know any fact about it that you did not then know; and, if so, state what that fact is?

A. I have understood that Jay Gould lived there now; but I didn't know it then.

Q. 643. I mean, do you now know of any fact which occurred previous to the making of this paper which you did not then know?

A. No, sir; I think not.

Q. 644. How much of the indebtedness of J. K. Place & Co. existing at the time of the assignment was for merchandise purchased by them?

A. I could not say, now.

Q. 645. As near as you can?

A. Probably in the neighborhood of about $600,000, I should think; it may have been more than that; in order to ascertain that, I deducted the amount that I remember as being the amount of the notes out from the amount of liabilities.

587 Q. 646. Against that had they anything more to show than about $250,000 worth of merchandise?

A. There seems to be due to them in the shape of open accounts and notes about 180 odd thousand dollars, besides the merchandise referred to.

Q. 647. Look at the paper now produced and shown you and state if you recognize it, and, if so, state what it is.

(Marked "Exhibit 52, March 4, 1869, R. E. S., examiner, &c.")

A. Yes, sir; I recognize it.

EXHIBIT 52.

Inventory of stock of goods, James K. Place & Co., Dec. 23rd, 1867.

		Price.	Duty.	Gross amo't.
60	bags Rio coffee, ex S't Ursula, 9,553, 96, 9,457 ..	13	.....	$1,229 41
60	bags in bond, 8,532	.....	$426 60	.....
478	bags Rio coffee, ex Talisman, 76,662, 767, 75,895.	13	.....	9,866 35
436	bags in bond, 73,791	.....	3,689 55	.....
503	bags Rio coffee, ex Star of Devon, 79,676, 796, 78,880	13	.....	10,254 40
445	bags in bond, 59,336	.....	2,966 80	.....
379	bags Rio coffee, ex Acme, 60,034, 600, 59,434	12½	.....	7,280 66
388	bags in bond, 21,975	.....	1,098 75	.....
840	p'k'g's Mocha coffee in Salem, 33,273, 2,399, 30,874	25	.....	7,718 50
106	p'k'g's Mocha coffee in N. York, 5,001, 335, 4,666	25	.....	1,166 50
925	p'k'g's in bond, 35,072	.....	1,753 60	.....
498	bags African ginger, ex Rescue, 55,150, 1,103, 54,047	10	.....	5,404 70
498	bags in bond, 55,496	.....	2,774 80	.....
	3 cases nutmegs, ex Geo. Canning, 227 lbs. nett	90	.....	204 30
588	3 cases in bond, 288½ lbs	.....	144 25	.....
	398 bags Singapore pepper, ex Geo. Canning, 38,327, 766, 37,561	22	.....	8,263 42
278	bags in bond, 27,143	.....	4,071 45	....
80	bags Singapore pepper, ex Alexander, 7,893, 158, 7,735 in bond	6¼	.....	483 43
4	bags Sumatria pepper, 640, 13, 627	22	.....	137 94
30	bags Race ginger, ex Ashburton, 2,402, 48, 2,354 .	10	.....	235 40
5	bags cassia sweepings, 354, 10, 344	10	.....	34 40
16	bags spice-dust, 1,751, 16, 1,735	5	.....	86 75
12	bags skimmings, 1,478, 12, 1,466	4	.....	58 64
8	bags pepper-dust, 805, 8, 797	4	.....	31 88
17	mats Java coffee, 1,149, 11, 1,138	21	.....	238 98
1	mat Singapore Java coffee, 39	20	.....	7 80
2	bags Java skimmings, 219, 2, 217	12	.....	26 04
4	bags Java skimmings, M, 435, 4, 431	10	.....	43 10
1	bag Rio sweepings, ex Sranen, 80, 3, 77	5	.....	3 85
1	bag Rio store-sweepings, 95, 3, 92	5	.....	4 60
1	bag sample coffee, 155, 2, 153	5	.....	7 65
9	bags odds & ends, 550 lbs	5	.....	27 50
69	h'lf-chests Souchong tea, ex Challenge, 979, 1,020, 3,559	85	.....	3,025 15
65	in bond, 3,663	.....	915 75	.....
6	half-chests Japan quick, * 4, 381, 102, 279.	52	.....	145 08
	10 half-chests Japan quick, * 5, 622, 160, 462	50	.....	231 00
589	8 half-chests Japan quick, * 7, 550, 136, 414	52	.....	215 28
	19 half-chests Japan quick, * 8, 1,272, 323, 949...	50	.....	474 50
61	half-chests Oolong, ex Kate Carnie, 36-8, 3,459, 854, 2,605	55	.....	1,432 75
3	half-chests Hyson grassmere, * 66, 246, 84, 162...	80	.....	129 60
7	half-chests Imp'l, ex Horatio, * 67, 512, 105, 407.	50	.....	203 50
20	cases Gunpowder G, 1,780	35	.....	623 00
2	boxes Gunpowder, 8	100	.....	8 00

Exhibit 52—Continued.

		Price.	Duty.	Gross amm't.
	4 boxes Japan, ex * 1,003, Glenclune, 72	67		48 24
	2 h'lf-chests Japan, ex Glenclune, stained, * 127, 110, 30, 80	56		44 80
	5 half-chests Japan, ex Glencune, * 134-6, 274, 75, 199	56		111 44
	1 half-chest Japan, ex Glencune, * 143, 53, 13, 40	56		22 40
	2 half-chests Japan, ex Lorton, 48-53, 106, 30, 76	60		45 60
	1 half-chest Oolong, ex Amaranth, * 30, 59, 15, 44	40		17 60
	1 half-chest Oolong, ex Constantia, * 191, 55, 15, 40	40		16 00
	1 half-chest Souchong tea, ex Amaranth, * 2, 59, 14, 45	40		18 00
	1 half-chest Japan, ex Benefactor, * 18, 50, 13, 37	56		20 72
590	1 half-chest Japan, ex Johanin Marie, * 77, 55, 15, 40	60		24 00
	57 in bond, 60, 81		1,520 25	
	Broadwater, 97, in bond, 63, 60		1,590 00	
	1 half-chest Gunpowder, ex Loto, *60, 78, 17, 61	80		48 80
	1 half-chest Japan, ex Lorton, * 61, 52, 15, 37	60		22 20
	1 half-chest Imperial, ex I. N. Cushing, W. H. W., *4, 40, 16, 24	70		16 80
	7 half-chests Imperial, ex I. N. Cushing, A. A. L. & B., * 4, 454, 112, 342	50		171 00
	1 half-chest Hyson, Borealis, * 220. 73, 27, 46	80		36 80
	10 half-chests Y. Hyson, * 215, 880, 250, 630	90		567 00
	1 half-chest Y. Hyson, * 216, 89, 25, 64	90		57 60
	2 half-chests Imperial, * 213, 158, 48, 110	90		99 00
	1 half-chest Gunpowder, * 77, 68, 16, 52	80		41 60
	1 half-chest Y. Hyson, * 219, 73, 17, 56	50		28 00
	1 half-chest Y. Hyson, * 229, 69, 15, 54	70		37 80
	2 half-chests Imperial, * 236, 140, 32, 108	60		64 80
	1 half-chest Y. Hyson, * 240, 80, 16, 68	50		34 00
	3 boxes sample tea, 249	40		99 60
	1 half-chest Hyson, Borealis, * 245, 69, 25, 44	55		24 20
591	849 bags African ginger, ex Ann Elizabeth, 82,905, 1,658, 81, 247, in bond	4½		3,656 11
(100	bags African ginger, ex Rescue			
) 174	bbls. African ginger, ex Rescue, 30,422 lbs	10		3,042 20
	In bond, 31,267		1,563 35	
	150 bags Race ginger, ex Grinnell, 11,819, 450, 11,369, in bond	4		456 76
	392 bags Race ginger, ex Lord Palmeston, 41, 066, 521, 40,245	9½		3,823 27
	278 pockets Race ginger, ex Ann Roylston, 5,700, 250, 5,450	9½		517 75
2,403	pockets Race ginger, ex Childwecksberry, 45,754, 2,163, 43,591	9½		4,141 14
	Robin Hood, in bond, 43 lb		10 75	
	Refund duty on coffee, ex Express			107 60
	Refund duty on coffee, ex Delphine			339 80
	Refund duty on tea, ex Albatross			750 75
	Refund duty on tea, ex Tho's Dryden			100 00
	Refund duty on tea, ex Endeavor			500 00
		Currency.		
1,850	h'vy linen bags, @ 27 c'ts	$499 50		
225	l'ht linen bags, @ 20 c'ts	45 00		
2,050	c'ty Rio bags, @ 10 c'ts	205 00		
40	c'ty gunny-bags, @ 20 c'ts	8 00		
200	c'ty pepper st. bags, @ 8 c'ts	16 00		
250	c'ty pepper ld. bags, 15 c'ts	37 50		
592	500 c'ty Lagussa bags, @ 15 c'ts	75 00		
	200 c'y Maricaibo bags, @ 10 c'ts	20 00		

EXHIBIT 52—Continued.

			Price	Duty.	Gross amm't.
1,500	c'ty Java matts, @ 10 c'ts	150 00			
742	c'ty Java matts, no value				
2	dormant scales, $90	180 00			
3	portable scales, $6.50	19 50			
2	2-wheel trucks, $300	600 00			
3	4-wheel trucks, $11.00	33 00			
2	sugar-mills, $20.00	40 00			
2	fanning-mills, $10.00	20 00			
	Slings, crow-bars, shovels, &c	30 00			
	Thomas tools	200 00			
	Sales-room.				
2	sitting-desks	10 00			
1	upright "	5 00			
1	table	2 00			
1	bbl. for samples	25			
2	chairs	1 00			
1	stool	50			
2	tea-kettles	5 00			
1	revolving tea-table	8 00			
1	revolving tea, 4th story	8 00			
1	tea-rack, with drawers	10 00			
1	tea-rack with draw's, up-stairs	10 00			
2	small tea-scales	4 00			
	Cups, spoons, tea-cases	5 00			
3	iron safes	300 00			
6	counting-room desks	75 00			
	2 book-racks & drawers	25 00			
593	1 small upright desk	3 00			
	1 desk and case for letters	3 00			
1	letter-press and stand	10 00			
1	mahogany case, samples	15 00			
5	desk-stools	2 00			
1	sitting-desk	25 00			
1	sitting-desk, up-stairs	25 00			
1	wardrobe	25 00			
1	wardrobe, 3d story	25 00			
1	piece carpet	5 00			
2	looking-glasses	2 00			
1	Chinese junk, in case	10 00			
	Oil-cloth & carpet, (worn)	10 00			
1	time-piece	5 00			
	Coffee-drawers, sales-room	75 00			
	Do. do. small room	25 00			
	Elevator, engine, boiler	2,500 00			
		4,818 25			
	Reduced to gold @ 140				3,441 61
				$22,525 90	81,897 05
	Deduct elevator, engine, & boiler, $2,500 currency equal to (being included as a part of the store 132 & 134 Front street)				1,785 71
				$22,525 90	80,111 34
	Less duty to be paid on goods remain'g in bond				22,525 90
					57,585 44
	Less goods sold to del'r from 20th to 25th Nov.:				
2	half-chests tea, Cate Carnie, 35, 40, 75, 55				41 25
594	4¼ bales Mocha coffee, 146		25		36 50
	3 1/16 bales Mocha coffee, 54		25		13 50
	1¼ bales Mocha coffee, 75		25		18 75
	4 bags Rio coffee, ex Talesmen, 635		13		82 55
	10 bags Rio coffee, ex Acme, 1,469		12¼		179 95

EXHIBIT 52—Continued.

		Price.	Duty.	Gross amm't.
	1 bag sample, 50	5		2 50
	3 bags Singapore pepper, 302	22		66 44
	36 bags Rio coffee, ex Talesmen, 5,786	13		752 18
	8 lb. tea, 8	1 00		8 00
	30 bags Race ginger, ex Ashburton, 2,354	10		235 40
				1,437 02
				$56,148 42
	*Also 80 bags pepper, ex Alexander, sold by J. K. Place & Co., to Townsend, C. & D., *Nov. 20, & paid by them Dec. 4th, which is not included in above deductions.			
	1,650 bags Rio coffee, ex Acme, 261,360, lbs. nett	12¼		32,016 60
	1,650 bags in bond, 264,000		13,200 00	
	142 half-chests Japan tea, ex Glenclune, 7,143, 1,546, 5,297	57		3,019 29
	1 half-chest Japan tea, ex Glenclune,* 102-14, 52, 14, 38	55		20 90
	216 half-chests Japan tea, ex Glenclune, 129-33, 11,097, 2,592, 8,505	63		5,358 15
	121 half-chests Japan tea, ex Glenclune, 134-6, 6,212, 1,573, 4,639	70		3,247 30
	133 half-chests Japan tea, ex Glenclune, 137-42 7,095, 2,128, 4,967	57		2,831 19
595	221 half-chests Japan tea, ex Glenclune, 143-6, 11,940, 2,873, 9,067	58		5,258 86
	833 half-chests, in bond, 29,371		7,342 75	
	22 half-chests Gunpowder tea, ex Borealis,* 224, 2,087, 352, 1,735	89		1,544 15
	3 half-chests Imperial tea, ex Borealis,* 225, 230, 51, 179	80		143 20
	73 half-chests Young Hyson,* 226-7, 6,333, 1,168, 5,165	82		4,235 30
	45 half-chests Young Hyson,* 228, 3,231, 720, 2,511	58		1,456 38
	25 half-chests Young Hyson,* 229, 1,714, 375, 1,339	46		615 94
	42 half-chests Young Hyson, ex Borealis,* 230, 2,817, 630, 2,187	67		1,465 29
	17 half-chests Young Hyson, ex Borealis,* 231, 1,047, 289, 758	53		401 74
	22 half-chests Twankay,* 232, 1,388, 374, 1,014	40		405 60
	3 half-chests Gunpowder, ex Borealis,* 234, 182, 42, 140	70		98 00
	1 half-chest G'powder, ex Borealis, *233, 87, 26, 61	80		48 80
	2 half-chests Imperial, ex Borealis,* 238, 157, 50, 107	70		74 90
	128 in bond, 3,608		902 00	
	199 half-chests Souchong, ex Sam'l Russell, 11-17, 11,565, 2,587, 8,978	50		4,489 00
596	187 in bond, 10,277		2,569 25	
	128 half-chests Oolong, ex Queensland, 44-6, 7,927, 1,792, 6,135	45		2,760 75
	107 in bond, 5,381		1,345 25	
	22 half chests G'powder tea, ex Tycoon,* 35, 1,723, 308, 1,415	1 00		1,415 00
	23 half-chests G'powder tea, ex Tycoon,* 36, 1,527, 345, 1,182	80		945 60
	26 half-chests Imperial tea,* 37, 2,013, 416, 1,597	90		1,437 30
	52 half-chests Y. Hyson, ex Tycoon, 41-2, 3,558, 789, 2,778	80		2,222 40
	51 half-chests Y. Hyson, ex Tycoon, 45-6, 3,170, 765, 2,405	75		1,803 75
	166 in bond, 9,563		2,390 75	

EXHIBIT 52—Continued.

		Price.	Duty.	Gross amm't.
	19 half-chests Imperial tea, ex Tycoon, * 15, 1,147, 266, 881	90		792 90
	46 half-chests Y. Hyson, * 20-21, 3,237, 644, 2,593..	80		2,074 40
	61 in bond, 4,123		1,030 75	
	47 half-chests Y. Tyson, ex Resolute, * 72-4, 4,025, 752, 3,273	85		2,782 05
	20 half-chests Gunpowder tea, ex Finzell, * 30, 1,519, 300, 1,219	70		853 30
	30 half-chests Imperial tea, * 31, 2,186, 720, 1,466..	80		1,172 80
	22 half-chests Imperial tea, * 32, 1,536, 330, 1,206	70		844 20
	91 half-chests Y. Hyson tea, * 37-9, 7,371, 1,365, 6,006	53		3,183 18
597	32 half-chests Twankay, ex Finzel, * 44, 2,014, 512, 1,502	50		751 00
	2 in bond, 315, @ 10 c		86 62	
	12 half-chests Imperial, ex C. Babyuar, * 87, 668, 156, 512	50		256 00
	1 half-chest Y. Hyson, ex C. Babyuar, * 61, 76, 15, 61	50		30 50
	1 half-chest Y. Hyson, * 62, 60, 16, 44	50		22 00
	1 half-chest Y. Hyson, * 66, 65, 13, 52	50		26 00
	1 half-chest Imperial, * 70, 69, 15, 54	50		27 00
	1 half-chest Imperial, ex C. Babyuar, * 89, 58, 13, 45	50		22 50
	Subject to a loan from Jno. Caswell & Co. for $75,000, currency, of 4th Nov., 1867		28,867 37	90,153 22
	Less duty to be paid on goods remaining in bond			28,867 37
				$61,285 85
	561 bags Rio coffee, ex Star of Devon, 89,760	13		11,668 80
	561 bags in bond, 89,760		4,488 00	
	692 bags Rio coffee, ex Preciosa, 111,647, 1,116, 110,531	14		15,474 34
	684 bags in bond, 109,460		5,473 00	
	565 bags Rio coffee, ex Nouva Foma, 90,530, 905, 89,625	11½		10,306 87
	550 bags in bond, 89,252		4,462 60	
	84 bags Rio coffee, ex Tamno, 12.884, 129, 12,755.	13		1,658 15
598	1,167 bags Rio coffee, ex E. Schmidt, 187,403, 1,874, 185,529	14		25,974 06
	1,180 bags in bond, 174,184		8,709 20	
	480 bags Rio coffee, ex Polina, 75,394, 754, 74,640..	11		8,210 40
	409 bags in bond, 60,679		3,033 95	
	481 bags Rio coffee, ex H. E., 76,790, 768, 76,022 ...	14½		11,023 19
	557 bags in bond, 87,891		4,394 55	
	419 bags Rio coffee, ex Delphine, 65,596, 556, 64,940.	12		7,792 80
	450 bags in bond, 69,728		3,486 40	
	Bags in bond, ex Tamno, 84 bags in bond, 13,346		667 30	
	Subject to loan of $51,052.22, gold, 10th Oct., Maitland Phelps & Co		34,715 00	92,108 61
	Less duty to be paid on goods remaining in bond			34,715 00
				$57,393 61

Recapitulation.

Merchandise in hands of John Caswell & Co. as collateral for loan, $75,000, c'y, on 20th Nov., 1867	61,285 85
Do. do. Maitland, Phelps & Co. as collateral for loan of Oct. 10th, 1867, in gold, 5	57,393 61
Merchandise on hand	56,148 22
Total, gold	$174,827 68

EXHIBIT No. 52.

Debts due and owing to James K. Place & Co.

Name.	Residence.	Gold.	Amount.
Squires, Sherry & Galusha	Troy, N. Y		$792 28
Geo. C. Cook & Co	Chicago, Ill		173 10
Moore, Foot & Co	Detroit, Mich		1,929 06
Geo. W. Flanders & Co	Chicago, Ill		874 31
O. C. Hatch & Co	New York		575 00
Mr's H. Barker	"		3,791 00
S. M. Cushman	"		63 98
John B. Keys	"		25 30
Martin Gillett	"		20 16
A. Etheridge & Co	Rome, N. Y		388 32
Morse & Cole	Rochester, N. Y		162 24
C. A. Lawton	New York		38 80
Mr's Dorothy Place	"		230 00
James K. Place, (interest)			450 58
L. Frost & Co	Nebraska City, N		172 24
L. Frost & Co	" "		5,000 00
Gibson, Early & Co	Cincinnati, Ohio		2,471 91
J. W. Pitts & Co	Baltimore, Md		1,092 61
Cha's Stouton	New York		200 00
N. Sherwood	"		531 94
J. Gould & Son	"		1,907 44
A. D. Grieff	"		12 67
Forbes Bro's & White	S't Louis, Mo		1,217 95
Carr, Chase & Raymond	Boston, Mass	$1,246 17	
H. W. Hubbell	New York	138 03	
Sturges, Arnold & Co	"	1,447 99	
Ja's Cassidy & Co	"	548 42	
Geo. F. Gilman	"	21 89	
John Watson	"		15,432 33
Moore & Hill	"		10,917 61
T. Y. Kelly & Co	"		331 21
John Mann	New Albany, Ind	557 38	86 21
W. J. Quan	Chicago, Ill		1,665 55
Smith & Ellis	Marshall, Mich		592 38
Corbin, May & Jones	Chicago, Ill		360 67
Geo. W. King & Co	"		615 80
John Le Mesurier & Co	Quebec, C. E		502 80
Fitts Austin & Turner	New York	1,870 38	
W. M. Perry	"		407 10
Real estate J. K. P. in trust 601, 602	Milwaukee, Wis		34 20
John Duncklee	Brought forward		556 82
	Boston, Mass		457 04

	Value.
Bill merchandise, sold 20th Nov., 1867, tea	$792 28
" " " 17th Oct., " coffee	173 10
" " " 20th Nov., " tea	1,929 06
" " " 2d Oct., " coffee	700 00
Balance due on loan 20th Nov., '66, and int. to 20th Nov., '67	575 00
Cash advanced for taxes, $2,000 U. S. 7-30s, and interest to 20th Nov., 1867	3,791 00
Bill sold 4th and 16th Nov., sundries	63 98
" 23d Oct., tea	25 36
" 11th " "	20 16
" 8th Nov., sundries	388 32
" " "	162 24
" 9th Nov., tea	Nothing.
Cash advanced	230 00
" on account	450 58
Balance due open account, 20th Nov., 1867	172 24
Special capital advanced, 1st July, 1864	3,000 00
Balance due on coffee sold for account J. K. P. & Co	2,471 91
Bill tea, sold Nov. 9th and 16th, 1867	1,092 61
Balance due on bill tea, 12th Nov., 1867	200 00
Bill tea, sold 8th Nov., 1867	531 94
" " 6th, 8th, and 18th Nov., 1867	1,907 44
Balance due on bill 14th Oct., coffee	12 67
Bill tea, 30th Oct, 1867	1,217 95
" 17th Sept., "	1,660 00
" coffee, 24th Sept., 1867	100 00
Balance on bill coffee, 28th June, 1867	1,500 00
Bill tea, 23d Nov., 1867	730 00
" coffee, " " and tea, 9th Nov	15,450 00
" tea, balance due, sold 9th and 28th Oct., 1867	10,917 61
" coffee, sold 26th Nov., 1867	331 21
" " 11th and 15th Nov., 1867	830 00
" " 9th " "	1,665 55
" " 7th Nov., and balance bill 22d Oct	592 38
" sundries, sold 7th Sept	360 67
" coffee, sold 9th Nov	615 80
Balance due on bill tea, 27th Sept	502 80
" tea and molasses, sold 1867	2,500 00
Bill coffee, 5th Nov	407 10
" tea, 22d Oct	34 20
Advances taxes, etc., etc, on real estate, Milwaukee	556 82
Brought forward	
Bill tea, sold 20th Nov	457 00

A. G. Sherman	New York		65 00
Place & Prichard	"		1,000 00
C. H. Denison	"		425 00
G. C. Von Usla	"		445 00
C. C. Parks	"		131 25
J. Benedict	"		600 00
E. L. Prentiss	"		50 00
Groom Bro's & Co	"		1,207 71
Sackett, Belcher & Co	"		8,104 25
M. A. Vanbenschoten	"		979 41
M. C. Vanbenschoten	"		1,000 00
S. Vanbenschoten & Co	"		14,887 76
Williams, Young & Cass	Chicago, Ill		1,333 77
R. Blakley & Co	New Orleans, La		1,576 76
John A. Cooper & Co	New York		2,800 00
Lynch, Fling & Drew	Portland, Me		487 14
Cha's Gutschow & Co	Shanghai, China	20,693 51	
Gutschow & Co	Yokohama, Japan	33,047 14	
Brown Bro's & Co	New York		345 40
Humbold Ins. Co	"		1,200 00
Metropolitan Nat. Bank	"		6,000 00
Atlantic Mutual Ins. scrip 1866, 1867, 1867	"		2,580 00
Neise, Knoblouch & Co	"		177 74
Henry Baldwin	"		168 00
Joel White	"		165 00
James Dickie	"		79 00
Ja's M. Moore	"		1,000 00
Galbreath Stewart	Memphis, Tenn		2,025 25
" "	"		2,073 15
Woodward & Garesche	S't Louis, Mo		1,330 94
Brinkerhoff & Mills	New York		1,923 32
Sparkman, Place & King	"		10,000 00
" " "	"		10,000 00
" " "	"		10,000 00
" " "	"		10,000 00
60", 604	Brought forward		
Sparkman, Place & King	New York		10,000 00
" " "	"		12,039 24
Davenport & Son	"		815 00
Moore, Jenkins & Co	"		226 98
" " "	"		563 85
Lawton & Co	"		1,792 81
" "	"		1,792 80
" "	"		1,792 80
Place Refinery	"		120,000 00
G. T. Meyer	Quincy, Ill		2,038 71
A. Engelhardt & Co	Louisville, Ky		932 12

Balance bill sundries, sold 21st Jan., 1867	Nothing.
Cash loaned 8th Feb., 1866	100 00
" " "	100 00
Cash advanced, 1867	445 00
Note due 1st Feb., 1868	131 25
Balance due on loan, July 16th, 1867	600 00
Loan, July 31st, 1866	Nothing.
Balance of account for teas, sold 1866, including interest to Dec. 31st, 1866	100 00
Merchandise sold in 1866, including int. to Dec. 31st, 1866	500 00
" " 1867	100 00
" " Sept. 5th, 1867	500 00
Their notes, due 19th Oct., 1866, 19th April, 1867, 19th Oct., 1867, and interest	2,800 00
Cash loaned Dec. 15th, 1866, $1,500, merchandise 31st Dec., 1866, $419.63, less $585 86, interest	500 00
Balance bill coffee, 30th April, 1867	100 00
Bill tea, sold 1867	2,500 00
" " " 18th and 19th Oct., 1867	487 14
	4,138 00
	6,609 00
Interest in currency, deposited as collateral for loan sterling	345 40
12 shares stock, each $100	980 00
60 "	7,500 00
	2,000 00
Bill pepper, sold 12th Nov	177 74
Cash loaned, 1866	150 00
" "	100 00
" 1867	50 00
Notes due 1st May, 1868, $500, 1st Nov., 1868, $500	1,000 00
" 11th Jan., "	2,025 25
" 10th Feb., "	2,073 15
" 8th Jan., "	1,300 00
" 18th Feb., "	1,900 00
Note payable 12 months from Oct. 1st, 1867, with interest	10,000 00
" " " " 18th, " "	10,000 00
" " " " 21st, " "	10,000 00
" " " " 29th, " "	10,000 00
NOTE—Value written in pencil. Brought forward	
Note payable 12 months from Nov. 8th, 1867, with interest	10,000 00
" " " " 18th, " "	12,039 24
Cash loaned them, 1867	815 00
Note due 21st Jan., 1868	226 98
" 12th March, "	563 85
" 21st Feb., "	360 00
" 26th " "	360 00
" 2d March, "	360 00
Loans and commissions	50,000 00
Coffee ex Nautilus, sold 30th Oct., 1867	
" " 4th Nov., "	

EXHIBIT No. 52—Continued.

Debts due and owing to James K. Place & Co.

Name.	Residence.	Gold.	Amount.				Value.
Gordon McMillan & Co	Cleaveland, O		2,519 00	"	"	6th " "	
Carver, Wendover & Co	St Louis, Mo		6,900 50	"	"	6th " "	
D. C. Ripley & Co	New York		361 92	"	"	12th " "	
Barrett, Bossitt & Co	Chicago, Ill		2,670 62	"	"	14th " "	
D. C. Ripley & Co	New York		597 52	"	"	15th " "	
E. C. Ely & Co	"		909 25	"	"	16th " "	
Meeker & Barker	Chicago, Ill		1,495 84	"	"	16th " "	
D. C. Ripley & Co	New York		561 72	"	"	16th " "	
Neise, Knoblauch & Co	St Louis, Mo		1,145 94	"	"	19th " "	
Alford, Talbot & Co	Indianapolis, Ind		1,358 47	"	"	19th " "	
Whitacker, Harmon & Co	Chicago, Ill	542 44		"	"	8th " "	
" " "	" "	905 45		"	Leonore,	24th Oct., "	
" " "	" "	958 75		"	"	8th Nov., "	
Thomas M. Kerr	Philadelphia	613 20	21 25	"	Acme, sold	9th " "	
T. Y. Kelly & Co	New York	215 10		"	"	11th " "	
J. E. Biddle & Co	"		785 60	"	"	14th " "	
Baskerville, Sherman & Co	"		294 55	"	"	18th " "	
Millerd & Cool	"		329 57	"	"	15th " "	
S. S. Wyckoff & Co	"		653 40	"	"	7th " "	
J. W. Palmer & Sons	"		316 00	"	"	2d " "	
H. F. Davis & Co	Washington, D. C		321 85	"	"	13th " "	
Carney, Fenelon & Co	Leavenworth, Kan		1,506 58	"	"	15th " "	
W. J. J. Clarke	Lexington, Ky		1,584 75	"	"	6th " "	
Comegys, Brady & Co	Baltimore, M'd		3,106 54	"	"	2d " "	
		$62,809 85	$30,411 69				

* NOTE.—Footings in pencil.

605 Q. 648. What is it?

A. It is an inventory of the stock of goods of J. K. Place & Co. and J. D. Sparkman, in the handwriting of Thomas T. Sheffield; the first 12 pages are in the handwriting of Thomas T. Sheffield, except the words in pencil at the head of page 11, "Debts due and owing to Ja's K. Place & Co."

Q. 649. In whose handwriting are those?

A. I should think it was in the handwriting of M'r Wallis, of Marsh, Coe & Wallis, which handwriting I am familiar with; some of the entries on page 11; the entries "More, Jenkins & Co., Lawson & Co., and the Place Sugar Refinery;" and the words "Loans and commissions," on the next page in pencil; and the items "Thomas M. Kerr, Philadelphia," and the following items on the 13th page, and all the items on the 14th page are in my handwriting; the words on page 5 in pencil, "Also, 80 bags pepper, ex Alexander, sold by J. K. Place & Co. to Townsend, C. & D., November 20, and paid by them December 4, which is not included in above deductions," are in my handwriting; the words at the top of page 6, "The following property is pledged to," &c., are in the handwriting of A. H. Wallis.

Q. 650. At whose request was this prepared?

A. I don't know.

Q. 651. Where did the assignees of J. K. Place & Co. keep their office?

A. At 134 Front street.

Q. 652. After the 23d of December, 1867, what business was J. K. Place in, and where?

A. I don't think he was in any business.

Q. 653. Has he never been in any business since?

A. I have seen him since at 134 Front street.

Q. 654. Have you ever seen him away from there engaged in business?

A. No, sir; I have not, engaged in any business.

Q. 655. What have you seen him do there?

A. I have seen him writing there.

Q. 666. Who conducted business there on the first floor?

A. For a time, Place, Gibson & Co.

Q. 667. Who composed that firm?

A. James K. Place, I believe, and Ephraim B. Place, and William H. Gibson; it was a commission business.

Q. 668. Was William H. Gibson formerly their clerk?

A. Yes, sir.

606 Q. 669. What became of the office furniture of J. K. Place& Co.?

A. It is my impression that M'r Sheffield sold it, with the exception of that that came into the hands of the special receiver.

Q. 671. Sold it to whom?

A. That I don't know.

Q. 672. Was it ever taken away from 132 Front street?

A. I suppose some of it must have been.

Q. 673. What was the furniture that Place, Gibson & Co. used?

A. They used a letter-press, I think, that belonged to J. K. Place & Co., and I believe that went into the hands of the receiver.

Q. 674. I ask what the furniture was that Place, Gibson & Co. used; where did they get it?

A. That I don't know.

LEWIS W. BURRITT, J'R.

Subscribed and sworn to before me this 13th January, 1870.

R. E. STILLWELL,
Special Examiner, &c.

607 JOHN B. MORGAN, sworn as a witness for the plaintiff:

Q. 1. Were you connected with J. K. & E. B. Place, and with J. K. Place & Co., and, if so, how long and in what capacity?

A. I was with J. K. and E. B. Place from November, 1863, to December, 1865; and with James K. Place & Co., from December 1, 1865, until they failed, viz, November 20th, 1867, as book-keeper. I had a power of attorney on the Manufacturers' Bank for J. K. Place & Co. The books I kept were the ledger, cash-book, journal, and loan-book, the last being a part of the ledger, or supplementary to it. The ledger kept by James K. Place & Co. was the same as the last ledger of J. K. & E. B. Place. The same was the case with the loan-book. On December 1st, 1865, J. K. & E. B. Place had, according to their books, a surplus above their debts of about six hundred and fifty-eight thousand dollars. A balance was struck on the account of James K. Place on the ledger, page 2, now produced and in my hands, of $227,301.62 to his credit. That indicated the extent of his interest in the assets after payment of debts. There was a balance struck on the account of J. D. Sparkman on the ledger, page 10, now produced and in my hands, of $262,719.48 to his credit. That was the extent of his interest in the assets after payment of debts. There was a balance struck to the credit of Ephraim B. Place on the ledger, page 6, now produced and in my hands, of $168,529.96. This indicated the extent of his interest in the assets after payment of debts.

Q. 2. Is there any place on the books of J. K. & E. B. Place where its debts and assets were collected together in one statement on the 30th November or 1st December, 1865?

A. On the journal of the 30th November, 1865. I presume that was a transcript of the balances of all the accounts on the ledger.

Q. 3. Do you recognize the book now produced and shown you? If so, state what it is.

608 A. That is the journal of that date; the trial-balance runs from page 261 to page 273; marked on page 261, "Sedgwick vs. Place, Exhibit No. 3, November 12, 1869; L. W. B., j'r."

Q. 4. In whose handwriting is the trial-balance?

A. In mine.

Q. 5. Was it made by you at or about that time?

A. It was made by me, yes, sir. I presume it was later than that date though; as soon as the books were got in shape to get on it.

Q. 7. Entered as at that date?

A. Yes, sir.

Q. 7. What did you say as to its being, or not, a correct transcript of the balances?

A. It is a correct transcript.

Q. 8. Do you know of any assets or indebtedness of the concern not appearing on that trial-balance?

A. I don't know of any.

Q. 9. State what at that time was the aggregate indebtedness of the concern.

A. I can't do it.

Q. 10. According to your own entries?

A. It has got to be figured up. This coversthings that are really not debts.

Q. 11. What are they? The items to the credit of profit and loss. I asked what the aggregate of the debt was?

A. It would take some figuring to do it.

Q. 12. Whereabouts in that trial-balance did the assets appear; that is, in which column of figures?

A. The assets are in the left-hand column.

Q. 13. Which column contains the debts?

A. The right-hand column.

Q. 14. Do you know of any items which appear as assets which were chargeable to either of the partners?

A. There seemed to be some that might have been charged.

Q. 15. Can you state what they were?

A. There is a debit to James K. Place, loan account, $6,222.50. I don't know what that consists of without looking through the account.

Q. 16. Any other?

A. There seems to be some stocks that were owned by the concern. I suppose if they were divided they ought to be charged to the individuals.

Q. 17. What items do you refer to?

A. Some ferry stock, Humboldt Insurance stock, Allaire Works stock, New York and Nevada Mining Company's stock, Metropolitan Bank stock, and Union Sugar Company.

Q. 18. Do these items all appear among the assets?

A. Yes, sir; they were property belonging to the concern.

609 Q. 19. Do you know of any item in the left-hand column of figures which does not represent an investment of the firm money in property actually existing, or an indebtedness due to the concern?

A. There are items in the left-hand column here that are securities for loans.

Q. 20. Will you please specify them?

A. I can specify some of them or all of them, as you please.

Q. 21. Is there any general way of characterizing them?

A. Yes; the items in red ink in the left-hand column of figures indicate debts due to the concern in gold, as security for the payment of which the concern had, in currency, the items in black figures opposite such red items.

Q. 22. With the exception of these items do you know of any item in the left-hand column of figures which does not represent an investment of money of the firm in property actually existing, or an indebtedness due to the firm?

A. I don't discover any item but what represents an investment of the money of the firm in property actually existing, or an indebtedness due to the concern.

Q. 23. How much, if any, capital, either in money or other property, did James K. Place contribute to the firm of James K. Place & Co. beyond his interest in the assets of the preceding firm of J. K. & E. B. Place?

A. I don't know that he contributed anything but that.

Q. 24. How much capital, either in money or other property, did James D. Sparkman contribute to the capital of J. K. Place & Co. be-

yond his interest in the assets of the preceding firm of J. K. & E. B. Place?

A. His interest in the assets of the firm of J. K. & E. B. Place exceeded the amount of his capital contributed to Ja's K. Place & Co., to the best of my recollection.

Q. 25. Did he contribute anything to the capital of James K. Place & Co.; and, if so, how much and in what form, in addition to his interest in the assets of J. K. & E. B. Place?

A. I don't know of anything that he contributed. I don't see any occasion for contributing anything; he had a balance to his credit.

Q. 26. Exceeding what capital he agreed to contribute?

A. He left the amount of money which stood to his credit over and above his capital.

Q. 27. How were the assets of J. K. & E. B. Place handled and
610 disposed of, and by whom, after the formation of the second firm?

A. I presume M'r E. B. Place handled his portion of them himself—controlled them. That is a matter I cannot answer from my own knowledge—it is only a surmise.

Q. 28. Do you know of any specific property being set off to M'r E. B. Place in satisfaction of interest?

A. I remember he had a mortgage on the Front street store given him.

Q. 29. Was or was not that charged to him before getting at the balance of $168,000?

A. It was; yes, sir.

Q. 30. Now, what I mean is this, do you know of any, and, if any, what, specific property being set off to Ephraim B. Place in satisfaction of his interest of $168,000?

A. I don't remember anything now.

Q. 31. How did he realize that interest?

A. He drew money out in cash.

Q. 32. Did he, prior or up to 20th November, 1867, draw any sum in excess of his interest; if so, how much?

A. According to this book his account was overdrawn; but the items have been entered since I left that firm. I don't know how it stood then; I don't remember. As far as I had posted the account it would show a balance of $16,068.14 overdrawn by him.

Q. 33. From what were the entries to his debit made by you?

A. From cash items that he drew out and what seems to be his proportion of a loss on stock that belonged to the firm, and I suppose principally that sort of thing.

Q. 34. You mean principally cash?

A. Yes, sir.

Q. 35. On the 30th November, 1865, did the firm of J. K. & E. B. Place own any property in Michigan?

A. I think they did. There is an account on the books called "Real estate, Michigan," page 44 of Ledger A, now before me.

Q. 36. Had they any bonds and mortgages upon property in Michigan?

A. Did they own any, you mean, against property?

Q. 37. Yes.

A. I don't see anything of the sort.

Q. 38. Have you any memory?

A. My memory don't say whether they had any bonds and mortgages out there or not. I don't think they had.

Q. 39. Had J. K. & E. B. Place an account on their books entitled "premium on specie"?

A. Yes.

Q. 40. What did that represent?

611 A. That represented the premiums paid on gold purchased, and received on gold sold over and above the par value.

Q. 41. What items went to the debit of that account?

A. Premiums over and above the par value of gold purchased.

Q. 42. What went to the credit of the account?

A. Premiums over and above par value received on gold sold.

Q. 43. If you bought $1,000 worth of gold and paid $1,500 for it, how much did you charge the account of "premium on specie"?

A. $500.

Q. 44. If you then sold that gold for $1,750, how much did you credit "premium on specie"?

A. $750.

Q. 45. By that process what would be the result of the account?

A. Supposing these would be the only two entries in the account, I should think there would be a balance to the credit of the account of $250.

Q. 46. Would that be a debt of the concern?

A. No; a profit to the concern.

Q. 47. How would you dispose of that balance?

A. If it was intended to divide it out amongst the partners, I should credit each with his proportion of it and charge the account.

Q. 48. Would you not put it to the credit of "profit and loss"?

A. Yes, sir; that would be more likely.

Q. 49. Suppose there was a balance to the credit of the account "premium on specie" to the amount of $350,000 on the 30th of November, 1865, what would that indicate?

A. That really indicates not a profit; but it was a credit made to that account by making a corresponding debit to merchandise account, for which debit was the amount of premiums, or balance rather of premiums, that should be charged that account, for items charged it in gold instead of currency. In other words, that entry which you speak of is the one which turns all the gold items of the year into currency, as far as the last year goes.

Q. 50. Does it not indicate the amount that you have got to pay to return the specie?

A. That we would have to pay if we bought the gold on the last day of that year.

Q. 51. In fact, it indicates a liability, does it not, estimating at the prices of that day?

A. As far as the books were concerned, the amount was expended, because it was charged to the proper account, as if it had been

612 expended. If they wound up that day they would have to pay out that much money, and then it would have been charged as cash.

Q. 52. Charging it to merchandize renders it necessary, according to your system of book-keeping, to find some account to which to credit it, does it not?

A. Yes, sir.

Q. 52. And does it indicate anything more than this, that merchandize had got to yield you that amount to enable you to replace or return gold liabilities, or meet gold liabilities?

A. I don't know as I understand that question fully; but if I can give

my understanding of that entry it might save a whole lot of questions. As I understand that entry, the firm of J. K. & E. B. Place, in point of fact, bought the gold of which that item is the premium, from the new firm of James K. Place & Co.; in other words, they transferred their liabilities to James K. Place & Co., for so much money—that is the idea.

Q. 54. Who did they owe that balance to?

A. I don't consider it was a balance owed at all.

Q. 55. Not a liability?

A. Not really speaking, for J. K. & E. B. Place.

Q. 56. Was it for James K. Place & Co.?

A. James K. Place & Co. assumed the chances on making a profit or a loss on those items. The item of $370,441.83, which stood to the credit of the account of premium on specie at page 253 of James K. Place & Co's ledger, December 31, 1866, represented the amount of currency which the firm would have to spend, as a premium, in order to provide itself with gold to meet its gold liabilities, and was met by a corresponding charge to the debit of the merchandize account.

Q. 57. Is there any place on the books of James K. Place & Co. where its assets and indebtedness, as existing on the 31st of December, 1866, were collected together by you? If so, point it out.

A. The materials for arriving at that are collected on the journal now produced and shown me, being "Journal A, J. K. P. & Co.," under the head of the trial-balance, December 31st, 1866, pages 98 to 107 inclusive; and which is marked in my handwriting on page 98, "Sedgwick v. Place, January 10, 1870, J. B. Morgan."

613 Q. 58. At the date of making up that trial-balance, had or had not the profit and loss account been completed?

A I think it had not.

Q. 59. What remained to complete it?

A. It would have been necessary to have charged up the losses incurred for that year.

Q. 60. Would any of the items which appeared in the trial-balance have been transposed or extinguished in order to complete the "profit and loss account"?

A. I think the item $812,062.74, charged in pencil to merchandize, would have to be transferred to the debit of profit and loss account to complete that account.

Q. 61. What effect would that have upon the item which stands on the trial-balance to the credit of profit and loss account, $606,785.95?

A. It would show the loss of the year.

Q. 62. Would it extinguish that item?

A. Yes, sir.

Q. 63. And what would that show the losses of the year to have been?

A. It would show the losses to have been $205,276.79, supposing that I had everything else posted that should be.

Q. 64. How would that loss have been apportioned?

A. Three-quarters of it, I presume, should have been charged to James K. Place, and one-quarter to M'r Sparkman. The 3-4 to the debit of James K. Place would be $153,957.59; the 1-4 to be charged to M'r Sparkman would be $51,319.20; but the profits were effected by other small items which reduced M'r Place's proportion of the losses of that year to $153,050.68, and reduced M'r Sparkman's proportion of the losses of that year to $51,016.90. It seems to be so from the present appearance of the books. I have not been over the figures and don't know whether it is so or not. I don't want to swear to it, but I have no doubt it is so, as M'r Burritt did it.

Q. 65. You can swear that 3-4 of $205,276.79 is $153,957.39, and 1-4 $51,319.20, can't you?

A. Yes, sir; but as to the accounts now actually charged to Place and Sparkman respectively, I don't know what additional items were taken into account.

Q. 66. If M'r Place had been, on his ledger, on the 31st December, 1866, charged with his proportion of the losses of that year, what would have been his interest in the concern?

A. $11,512.12 less than nothing.

614 Q. 67. I asked what would have been his interest in the assets of the concern, and what in fact was his interest in the property of the concern remaining after payments of debts, taking into view those losses of that year?

A. It would seem to wipe them all out according to those figures.

Q. 68. By "them" do you mean his interest?

A. Yes, sir; taking the losses that year and the valuation put upon the property at that time, it would seem that his interest was used up.

Q. 69. What, taking into account these losses, was the actual surplus of the concern, and to whom did it belong?

A. The surplus belonged to M'r Sparkman; what the amount of it was I don't know.

Q. 70. You can figure it, can't you?

A. I don't know whether it belongs to him in law or not; I suppose it would, though.

Q. 70. The amount which would remain to his credit after charging him with his proportion of these losses, would or would not that represent the actual surplus of the concern, and how much would it be?

A. Charging M'r Sparkman, for his proportion of the losses of the year 1866, with $51,319.20, there would have been a result to his debit, as the books then stood, of the sum of $41,013.75, which would represent the amount he would have to pay in in order to make his capital of $200,000 good; but placing to his credit $200,000, for which he was charged as his contribution to the capital, there would remain to his credit $158,986.25, which sum would represent the actul surplus of the concern belonging to him, and there would be no share of the surplus to the credit of James K. Place.

Q. 71. Will you please look at the trial-balance of December 31, 1866, and state if you know of any item appearing among the assets in the left-hand column which does not represent money of the firm invested in property actually existing or an indebtedness due to the concern?

A. As to the items in red ink, they represent gold transactions where the firm borrowed or loaned gold, and took or gave security against it; such items appear among the assets and the debts both, and one is supposed to off set the other; it does not affect the balance in the

615 slightest. (After exam'ing the trial-balance, the witness says:) I do not discover anything.

Q. 72. Please observe the items among the assets of "Lots on 43rd street, New York, $16,210;" "Fifth avenue, corner of 47th street, New York, Ja's K. Place, $61,627;" "United States 7 3-10 bonds, James D. Sparkman, $40,132.18;" "Susquehanna Seminary, Binghamton, New York, $14,229;" "Disbursements in Washington, $1,839.90;" and upon the assumption that these items didn't represent property of the concern, state what surplus, if any, the firm had.

A. About $25,000.

Q. 73. Did the firm ever realize anything from the item among the assets of "Place and Taurly, special, No. 2, $32,400.50?"

A. Not to my knowledge.

Q. 74. Was it or not a total loss?

A. I think it was a total loss; I never heard of their getting anything out of it.

Q. 75. How much money of the firm, after December 31st, 1866, was spent on the investment which appears on the trial-balance under the name of "5th avenue, corner of 47th street, James K. Place," (page 31,) exclusive of interest?

A. $34,546.89.

Q. 76. How much money of the firm was invested after 31st December, 1866, in the investment of special capital in the firm of Sparkman, Place & Co., and when was that investment made?

A. On 10th of January, 1867, there is a cash item of $30,000.

Q. 77. Do you know what was got for that investment?

A. I do not; no sir.

Q. 78. How much money of the firm was spent after the 31st of December, 1866, if any, in an investment in the stock of a corporation called "The Place Sugar Refinery," and when was that investment made?

A. There seems to be two items on the book. "Place Sugar Refinery stock, J. D. Sparkman, June 4, 1867, $66,700," and the same date, same amount of Place Sugar Refinery stock to James K. Place.

Q. 79. Did the firm ever realize anything from that investment?

A. I think they never did.

Q. 80. Did the firm ever realize anything from the investment in Sparkman, Place & Co.?

A. I think not.

Q. 81. Were you ever connected with Sparkman, Place & Co.?

A. No sir.

616 Q. 82. Were you ever connected with Sparkman, Place & King?

A. Yes, sir.

Q. 83. What was the connection between Sparkman, Place & King and Sparkman, Place & Co.?

A. I don't know that there was any.

Q. 84. What was the business of Sparkman, Place & Co., and Sparkman, Place & King?

A. Importers of corks, and manufacturers of whiting.

Q. 85. Did both concerns exist together?

A. Not to my knowledge. I don't know, sir; I think not.

Q. 86. About the 19th or 20th of November, 1867, what was the condition of James K. Place & Co.?

A. I should judge they were bankrupt at that time.

Q. 87. How did you know it?

A. The 20th? Because they stopped.

Q. 88. How did you know they stopped?

A. Well, I knew they didn't pay the note that came due that day.

Q. 89. How many people employed in the concern knew on the 19th that they were insolvent?

A. Besides me? You mean clerks?

Q. 90. Yes; clerks and employés?

A. Two of us, I guess; I know that two did; I didn't know of any other.

Q. 91. Which two?

A. M'r Burritt and M'r Gibson.

Q. 92. M'r Sheffield?

A. That I don't know.

Q. 93. Did you pay him any money?

A. I forget; I think I did.

Q. 94. How much?

A. I know he got $4,500.00; I think I paid it to him.

Q. 95. State the circumstances of that payment.

A. Well, he simply asked me for the money, and I gave it to him.

Q. 96. How much did he ask you for?

A. For his balance, $4,500.00, with the interest on it.

Q. 97. Who was present?

A. I cannot particularize, but it was done in the office, among the clerks and others.

Q. 98. Did you get permission from anybody to pay it to him?

A. No, I think not.

Q. 99. Consult with anybody?

A. I don't remember having consulted with anybody; no, sir.

Q. 100. Before the 19th of November, what was known among the clerks, including yourself, M'r Burritt, and M'r Sheffield, concerning the condition of the firm?

A. The only thing that I am aware of is, there was a general notion among the clerks, the senior clerks, that the firm was short.

Q. 101. Did you know of the losses on the investments that you
617 have testified to?

A. I think I knew of some of them; I knew of some losses, yes, sir; I knew they lost a good deal of money in '66.

Q. 102. Did Sheffield or Burritt know that?

A. M'r Burritt knew; I don't know that M'r Sheffield did.

Q. 103. Did you receive instructions to pay any of the salesmen of the firm, or any relative of either partner, the money that was due them?

A. I don't think I received directions to pay anybody money that was due them.

Q. 104. Did you know of the firm having hypothecated cargoes, or large quantities of merchandize?

A. Yes, sir.

Q. 105. Was that in or out of the usual course of their business?

A. I don't think they ever did it until that year, while I was with them.

Q. 106. Did Sheffield or Burritt know of that?

A. I think they both did; yes, sir.

Q. 107. Why do you think so?

A. Well, the goods hypothecated were teas, and in M'r Sheffield's department; and M'r Burritt knew it naturally as the cashier of the concern.

Q. 108. Will you please turn to page 182 of the journal, at the entry, under date of November 7, "James K. Place to Fifth avenue, corner of West Forty-seventh street. For balance account, $100,633." Who made that entry?

A. I did.

Q. 109. Why?

A. In order to close up the account, I presume, according to instructions; that I don't remember now, whether I was instructed or not.

Q. 110. Under whose instructions were you acting at the time?

A. Well, I was employed by M'r Place, and under his general instructions; I don't remember that he told me to do that; I think it is very likely he did, however.

Q. 111. Look at the entry on same page, as follows: "James D. Sparkman to sundries U. S. 7.30 bonds, J. D. S.; for balance account, $40,800; U. S. Watch Co. for balance account, $1,102.53; Marion Building Co., $1,102.53," and say in whose handwriting that entry is.

A. Mine, sir.

Q. 112. Why did you make it?

A. I presume for the same reason that I made the last entry mentioned.

Q. 113. Did the firm have stock in the Marion Building Co.?

A. I understood they had; yes, sir.

Q. 114. Did you ever see it?

618 A. I don't know whether I ever saw it or not.

Q. 115. Was any such stock delivered to either partner on that day?

A. I don't know.

Q. 116. Were these entries made after or before the suspension?

A. I presume after the suspension.

Q. 117. Look at page 153, the entry, "sundries to E. L. Roberts, Fifth avenue, corner West 47th street, for his bill as architect, $4,500; lots on 43d street, for his bill as architect, $3,100," and state who made that entry.

A. I.

Q. 118. By whose direction?

A. Well, I don't remember; I presume it was all done under the same circumstances; but I don't remember whether I was directed to make these particular entries or whether I was directed to close the books.

Q. 119. Was it made at the same time with the previous entries?

A. I think likely. I don't remember now whether it was or not.

Q 120. Can you state why at or about the time of debiting the balances against the Fifth avenue property to James K. Place you at the same time made the firm debtor to E. L. Roberts for services in reference to that property?

A. No, sir; I do not know now why that was done unless it was according to instructions; I remember M'r Roberts had had some money on that account some time before; he probably sent in his bill about this time.

Q. 121. Look at page 144 of journal of James K. Place & Co., under date of "New York, August, 1867," at the entry "Joseph S. Barker to M'r's Susan A. Place, for mortgage on above property, dated May 1st, 1867, $30,000," marked "Sedgwick v. Place, November 12, '69, L. W. B., j'r," and say in whose handwriting it is.

A. Mine.

Q. 122. Were or were not any other words than the words "M'r's Susan A. Place" written where the words "M'r's Susan A. Place" now appear?

A. Yes, sir; I think there were.

Q. 123. Do you remember what words were originally written there?

A. No, I don't remember; but I could guess at it, if that would do you any good.

Q. 124. What did you do with the proceeds of the check drawn by you on the 19th or 20th November, 1867, "to bearer," for $9,500?

619 A. Brought the money into the office; well, in fact, I don't think I ever had the proceeds; I think I sent somebody out to collect it.

Q. 125. What was done with the proceeds?

A. Brought into the office, I believe.

Q. 126. What was done with them?

A. I don't know anything about it; I guess it was put in M'r Burritt's possession.

Q. 127. Had you any transaction on the 19th or 20th of November, with any shares of the Manufacturers' National Bank?

A. Well, I had sold some stock a month before on 30 days' time, and I think I received the money on the 18th November from Cincinnati, and had the stock transferred either that day or the 19th; I have forgotten which—some of my own stock.

Q. 128. What had E. B. Place to do with it?

A. I guess I bought some stock of E. B. Place at the time in addition to the sum mentioned.

Q. 129. Look at the check now produced and shown you, as follows: "New York, November 19, 1867. Manufacturers' National Bank pay to bearer ninety-five hundred dollars. J. K. Place & Co., by J. B. Morgan, att'y." Certified, "Fountain, cash., $9,500," and say in whose handwriting it is.

A. It is drawn by me.

Q. 130. And delivered to whom?

A. Well, I don't remember; I think I sent it out by some clerk—some one of the clerks or boys around the office.

Q. 131. Did you dispose of the proceeds?

A. No, sir; I did not.

Q. 132. What was the last you saw of the proceeds?

A. I don't know whether I ever saw them, whether I ever had the money in my possession or not.

Q. 133. Did you have anything to do with Daniel S't Amant on the 19th of November, 1867?

A. I think I went there; yes, sir.

Q. 134. State what business you transacted.

A. Made a transaction of some bonds.

Q. 135. State what transaction.

A. I exchanged some bonds there with him that he held as collateral security for a gold loan, I think.

Q. 136. What do you mean by "exchange?"

A. I took him down bonds and took those he had.

Q. 137. What did you get from him?

A. I got some bonds; I don't recollect what kind.

Q. 138. What did you do with them?

620 A. Brought them to the office of James K. Place & Co.

Q. 139. What was the last you saw of them?

A. That was the last I saw of them.

Q. 140. Whereabouts in the office were they?

A. In the immediate vicinity of the cashier's desk; I don't know exactly where. I think very likely I brought them in and laid them on the table, the way such things are usually done.

Q. 141. Did you get anything but bonds?

A. I don't remember getting anything else now.

Q. 142. Any Metropolitan Bank stock?

A. I don't remember.

Q. 143. Had he any of that?

A. I don't remember now.

Q. 144. Did you have any transaction on the 19th or 20th of November with L. Von Hoffman & Company?

A. I didn't; no, sir.

Q. 145. Had you ever before that time seen these bonds of S't Amant?

A. Yes, sir.

Q. 146. When?

A. I don't remember now. I saw them, I reckon, at the time they were purchased; I was very apt to see them.

Q. 147. When was that?

A. I don't remember.

Q. 148. In 1864, '65, or '66?

A. That I don't remember.

Q. 149. Had you ever seen them out of the possession of the firm? and, if so, specify where.

A. I knew that M'r S't Amant had them.

Q. 150. Did you never see them in the possession of any other person not a member of the firm?

A. I don't remember whether I did or not.

Q. 151. Look at the check now produced and shown you: "New York, Jan'y 9, 1866. Metropolitan National Bank pay to the order of Sparkman, Place & Co., thirty thousand dollars, ($30,000.) J. K. Place & Co." Endorsed: "Sparkman, Place & Co." Stamped: "Manufacturers' National Bank, January 10, 1867," and state in whose handwriting that check is.

A. It seems to be M'r James K. Place's.

Q. 152. When was that check actually given—1866 or 1867?

A. I don't know, sir. I don't know that I ever saw the check before.

Q. 153. Will you please refer to the cash-book, January, 1867, and see if you find any entry of it?

A. There is an entry on the 10th of January, 1867, charging
621 Sparkman, Place & Co., special No. 1, with $30,000.

Q. 154. Is that your handwriting?

A. No, sir.

Q. 155. Look at the checks now produced and shown you, and state in whose handwriting they are:

NEW YORK, *April* 3, 1867.

Manufacturers' National Bank pay to the order of M'r Samuel Lee, collector, twenty two $\frac{86}{100}$ dollars.

$22.86. JAMES K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *Feb'y* 28, 1867.

Manufacturers' National Bank pay to the order of Samuel Lee, collector, one hundred and eighty-five $\frac{88}{100}$ dollars.

$185.88. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *November* 12, 1866.

Metropolitan National Bank pay to the order of James Flynn, collector, seventy-seven $\frac{50}{100}$ dollars.

$77.51. JA'S K. PLACE & CO.

(On the margin:) J. K. & E. B. Place.

NEW YORK, *Nov.* 2, 1866.

Metropolitan National Bank pay to the order of Marsh, Coe & Wallis five hundred dollars.

$500. JA'S K. PLACE & CO.

(On the margin:) J. K. & E. B. Place.

NEW YORK, *May* 18*th*, 1866.

Metropolitan National Bank pay to the order of B. F. Manierre, esq., three hundred dollars.

$300. JA'S K. PLACE & CO.

NEW YORK, *August* 2*d*, 1867.

Manufacturers' National Bank pay to the order of the treasurer of the State of New York two hundred and thirty-four $\frac{78}{100}$ dollars.

$234.78. J. K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, 13 *April*, 1867.

Metropolitan National Bank pay to the order of B. F. Manierre two hundred and fifty dollars.

$250. JA'S K. PLACE & CO.,
By L. W. BURRITT, J'R.

622 A. All those that purport to be signed by me are in my handwriting.

Q. 156. The rest are signed by James K. Place, are they not?

A. With one exception, that signed by M'r Burritt, as attorney.

Q. 157. What were they given for?

A. I don't know; I have forgotten, if I ever did know; some of them probably never came to my notice before.

Q. 158. Look at the check to the treasurer of the State of New York, and say what that was given for?

A. I don't know, sir.

Q. 159. You can find in the cash-book, can't you?

A. I guess I can.

Witness examines cash-book, and reads the following entry:

"Paid New York State treasurer, interest to 7th August, 1867, on a mortgage of J. Mack and W. Waterman.....$234 78'

Q. 160. On what property?

A. The Susquehanna Seminary.

Q. 161. What kind of items did you charge to the account of Susquehanna Seminary?

A. Principally cash items, I guess.

Q. 162. Anything but money paid by the firm?

A. I shall have to look at the account before I can answer that. (Does so.) It seems to be interest, and an item to Marsh, Coe & Wallis, and a note.

Q. 163. How does the item to Marsh, Coe & Wallis compare with the check just shown you?

A. It does not compare with it.

Q. 164. Do you find anything charged corresponding to this check?

A. Not to this account.

Q. 165. Do you know C. Otto Ficht?

A. Yes, by sight.

Q. 166. Had the firm any dealings with him?

A. I think he was the decorator or fresco-painter of the 5th avenue house.

Q. 167. Do you intend that as answer to my question?

A. Of course I do.

Q. 168. Was his decorating the 5th avenue house a dealing with the firm?

A. I always understood it was a dealing with M'r Place personally.

Q. 169. Then please answer my question; had the firm any dealing with him?

A. Not that I am aware of; no, sir.

Q. 170. Do you know of their paying him any money?

A. I knew the firm check was given him and charged to this account.

Q. 171. Fifth avenue account?

A. Yes, sir.

623 Q. 172. Did they give him checks on any other account or upon any other consideration?

A. Not that I remember, sir.

Q. 173. Look at the checks now produced and shown you, and say in whose handwriting are the filling up and signatures in each case, and what they were given for.

NEW YORK, *Jan'y* 26, 1867.

Manufacturers' National Bank pay to the order of M'r C. O. Ficht seven hundred dollars.

$700. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *Feb'y* 23, 1867.

Manufacturers' National Bank pay to the order of M'r C. O. Ficht six hundred dollars.

$600. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *May* 20, 1867.

Manufacturers' National Bank pay to the order of M'r C. Otto Ficht five hundred seventeen dollars.

$517. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *Nov.* 19, 1866.

Manufacturers' National Bank pay to the order of M'r C. O. Ficht two hundred fifty dollars.

$250. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *Dec.* 1, 1866.

Manufacturers' National Bank pay to the order of M'r C. O. Ficht three hundred dollars.

$300. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

A. The filling up and signature are mine.

Q. 174. Do you know anything he did, or any consideration he furnished for these checks, other than work done on these premises corner of 5th avenue and 47th street?

A. I don't know of anything else he ever did that he received a check for.

Q. 175. By whose direction did you draw the firm's check to pay him?

A. M'r Place's, I presume.

Q. 176. Have you any recollection?

A. I do not remember M'r Place's saying "pay it," but I know I never should have paid it unless I had instructions.

Q. 177. Did M'r Sparkman ever direct you to pay it?

624 A. No, sir; I presume he never did, for the same reason.

Q. 178. Did you know the firm of Smith & True, and what did you know about them?

A. I know M'r Smith; M'r True I don't know; I know they are builders—carpenters.

Q. 179. What work did they do?

A. They did the carpenter-work on the 5th avenue house.

Q. 180. Will you look at these checks and say in whose handwriting are the signatures and filling up:

NEW YORK, *Nov.* 6, 1866.

Manufacturers' National Bank pay to the order of Mess'rs Smith & True three thousand dollars.

$3,000.

JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *March* 15, 1867.

Manufacturers' National Bank pay to the order of Mess'rs Smith & True two thousand dollars.

$2,000.

JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *June* 22, 1867.

Manufacturers' National Bank pay to the order of Mess'rs Smith & True one thousand dollars.

$1,000.

JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *July* 27, 1867.

Manufacturers' National Bank pay to the order of Mess'rs Smith & True four hundred and eighty-four 66-100 dollars.

$484.66.

JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *Aug.* 2, 1867.

Manufacturers' National Bank pay to the order of Mess'rs Smith & True three hundred seventy-seven 01-100 dollars.

$377.01.

JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

A. They are in mine.

Q. 181. What were they given for?

A. Well, I don't know; probably for work on that building; possibly for work on the store in Front street. They worked thereabout off and on all the time.

Q. 182. Had the firm any dealings with Samuel Oliver?

A. I don't remember him at all.

625 Q. 183. Do you know of him?

A. Don't remember his name.

Q. 184. Look at checks now produced and shown you, and state in whose handwriting and signature they are in.

NEW YORK, *Feb'y* 2, 1867.

Manufacturers' National Bank pay to the order of M'r Samuel Oliver five hundred dollars.

$500.

JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

(Across the face:) Certified. Fountain, cas. The Manufacturers' National Bank of New York. Mechanics' Bank, Brooklyn.

NEW YORK, *M'ch* 23, 1867.

The Manufacturers' National Bank pay to the order of M'r Samuel Oliver six hundred dollars.

$600.

JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

(Across the face:) Certified. Fountain, cas. The Manufacturers' National Bank of New York. Mechanics' Bank, Brooklyn.

A. They are in my handwriting and my signatures.

Q. 185. Do you know what they were given for?

A. No, sir; I don't remember that name at all; I have forgotten it.

Q. 186. Do you know M'r Walter Jones?

A. No, sir; I think not.

Q. 187. Do you know of him?

A. I think I remember M'r Jones' name in connection with that house, but just what he did I have now forgotten.

Q. 188. Look at checks now produced and shown you, and say in whose handwriting the filling up and signatures are.

NEW YORK, *March* 26, 1866.

Manufacturers' National Bank pay to the order of M'r Walter Jones fifteen hundred dollars.

$1,500.

JA'S K. PLACE & CO.,

NEW YORK, *March* 7, 1867.

Manufacturers' National Bank pay to the order of M'r Walter Jones two thousand dollars.

$2,000.

JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

A. The first one, dated March 26th, 1866, is filled in my hand-
626 writing and signed by James K. Place; the second, dated March 7th, 1867, is in my handwriting, signature and all.

Q. 189. Do you know the firm of Morgan & Anderson?

A. I know about them, but my recollection is not any stronger than about Walter Jones. I don't know what they did.

Q. 190. Look at the checks now shown you, and state in whose handwriting the signatures and filling up are.

NEW YORK, *Feb'y* 26, 1866.

Manufacturers' National Bank pay to the order of Mess'rs Morgan & Anderson one thousand dollars.

$1,000. JA'S K. PLACE & CO.,
By L. W. BURRITT, J'R, *Att'y.*

NEW YORK, *March* 22, 1866.

Manufacturers' National Bank pay to the order of John B. Morgan thirty-five hundred dollars.

$3,500. JA'S K. PLACE & CO.,
By L. W. BURRITT, J'R, *Att'y.*

(Endorsed on back:) Pay to the order of Morgan & Anderson. John B. Morgan.

NEW YORK, *Nov.* 15, 1866.

Manufacturers' National Bank pay to the order of Mess'rs Morgan & Anderson two thousand dollars.

$2,000. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *Jan'y* 19, 1867.

Manufacturers' National Bank pay to the order of Mess'rs Morgan & Anderson twelve hundred dollars.

$1,200. JA'S K. PLACE & CO,
By J. B. MORGAN, *Att'y.*

(Across the face:) Certified. Fountain, cas. The Manufacturers' National Bank of New York.

A. The one of the 19th January, 1867, and the one of 15th November, 1806, are in my handwriting, both of them; the one of March 22 is partly in M'r Burritt's handwriting and partly in mine; that of 26th of February is also partly in mine and partly in M'r Burritt's handwriting.

Q. 191. Please look at the remaining checks now shown you and say in whose handwriting the signatures and filling up are, and, as far as you can, what they were given for.

627 NEW YORK, *February* 3, 1866.

North River Bank pay to the order of M'r James Howell four hundred dollars.

$400. JA'S K. PLACE & CO.

NEW YORK, *July* 27, 1866.

The National Park Bank pay to the order of M'r E. L. Roberts five hundred dollars.

$500. JA'S K. PLACE & CO.

NEW YORK, *August* 2, 1866.

Manufacturers' National Bank pay to the order of John B. Morgan five hundred dollars.

$500. JA'S K. PLACE & CO.,
By L. W. BURRITT, J'R, *Att'y.*

(Across the face:) Certified. Fountain, cas. The Manufacturers' National Bank of New York.

(Endorsed on back:) Pay to the order of Higgins & Bommer. John B. Morgan.

NEW YORK, *Aug.* 25, 1866.

The National Park Bank pay to the order of John B. Morgan two thousand dollars.

$2,000. JA'S K. PLACE & CO.

(Endorsed on back:) Pay Cornelius Doyle or order. John B. Morgan.

NEW YORK, *Nov.* 27, 1866.

Manufacturers' National Bank pay to the order of M. P. Heany fifty dollars.

$50. JA'S K. PLACE & CO.

NEW YORK, *M'ch* 15, 1867.

Pay to the order of M'r J. Howell, j'r, one thousand dollars.

$1,000. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Atty.*

NEW YORK, *Jan'y* 10, 1867.

Manufacturers' National Bank pay to the order of M'r J. E. Macfarland two hundred twenty-five 56-100 dollars.

$225.56. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *April* 22, 1867.

Manufacturers' National Bank pay to the order of M'r John Shuster one hundred 36-100 dollars.

$100.36. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

628 NEW YORK, *April 30th*, 1867.

Manufacturers' National Bank pay to the order of M'r E. Holmes one hundred ninety-five $\frac{50}{100}$ dollars.

$195.50. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *May 8th*, 1867.

Manufacturers' National Bank pay to the order of the Architectural Iron Works three hundred thirty-nine $\frac{58}{100}$ dollars.

$339.58. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *Sept. 28th*, 1867.

Manufacturers' National Bank pay to the order of Mess'rs Higgins & Bommer eighteen dollars.

$18. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *Oct.* 3, 1867.

Manufacturers' National Bank pay to the order of M'r Stephen Philbin one hundred eight $\frac{38}{100}$ dollars.

$108.38. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

A. The check of May 8th, 1867, on the Manufacturers' Bank, is signed by me; the check of August 2d, 1866, on the Manufacturers' Bank, to

my order, is signed by L. W. Burritt, j'r, as attorney, and endorsed by me and Higgins & Bommer; the check on the Park Bank, dated July 27th, 1866, is in my handwriting, to the order of E. L. Roberts, and is signed by James K. Place; the check on the North River Bank, to the order of James Howell, is signed by James K. Place; the check of the 25th of August on the Park Bank is signed by James K. Place; it is to my order, for $2,000, and endorsed by me to Cornelius Doyle; the check on the Manufacturers' Bank, to the order of J. Howell, junior, for one thousand dollars, is entirely written by me; the check on the Manufacturers' Bank, to the order of John Shuster, is entirely written by me; the check on the Manufacturers' Bank, to the order of P. Heany, is entirely written by me; the check on the Manufacturers' Bank, to
629 the order of Stephen Philbin, is entirely written by me; the check of September 28th, 1867, on the Manufacturers' Bank, to the order of Higgins & Bommer, is entirely written by me; the check on the Manufacturers' Bank, to the order of M'r E. Holmes, is entirely written by me; the check on the Manufacturers' Bank, to the order of J. E. Macfarland, is entirely written by me.

Q. 192. What were these given for?

A. I don't know sir; I *I* don't remember them at all.

Q. 193. Do you remember any of the payees of these checks as being dealers with the firm?

A. I don't remember any of these names as customers of the firm, sir.

Q. 194. Look at the batch of checks now produced and shown you, and state in whose handwriting is the filling up and signatures, and what they were given for, if you can.

NEW YORK, *Nov. 9th*, 1866.

Manufacturers' National Bank pay to the order of M'r R. J. Livingston nine hundred dollars.

$900. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

(Across the face:) Certified. Fountain, cas. The Manufacturers' National Bank of New York.

NEW YORK, *Nov. 17th*, 1866.

Manufacturers' National Bank pay to the order of Messrs. J. & P. Garry four hundred dollars.

$400. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *Feb'y 1st*, 1867.

Manufacturers' National Bank pay to the order of M'r R. White one thousand dollars.

$1,000. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *March 8th*, 1867.

Manufacturers' National Bank pay to the order of Mess'rs J. & P. Garry five hundred dollars.

$500. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *M'ch 12th*, 1867.

Manufacturers' National Bank pay to the order of M'r J. T. Smith four hundred nine 59 100 dollars.

$409.59. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

630 NEW YORK, *M'ch 30th*, 1867.

Manufacturers' National Bank pay to the order of Mess'rs J. & P. Garry five hundred dollars.

$500. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

(Across the face:) Certified. Fountain, cas. The Manufacturers' National Bank of New York.

NEW YORK, *April 11th*, 1867.

Manufacturers' National Bank pay to the order of M'r J. T. Smith one thousand dollars.

$1,000. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *April 12th*, 1867.

Manufacturers' National Bank pay to the order of M'r R. White two thousand dollars.

$2,000. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *April 22d*, 1867.

Manufacturers' National Bank pay to the order of M'r J. T. Smith two thousand fifty dollars.

$2,050. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *May 11th*, 1867.

Manufacturers' National Bank pay to the order of Mess'rs Janes, Kirtland & Co. two hundred sixty-five 74-100 dollars.

$265.74. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *May 11th*, 1867.

Manufacturers' National Bank pay to the order of Mess'rs Hagaman, Arnold & Co. two hundred five 60-100 dollars.

$205.60. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *May 11th*, 1867.

Manufacturers' National Bank pay to the order of Mess'rs J. & P. Garry fifteen hundred dollars.

$1,500. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

631 NEW YORK, *May 11th*, 1867.

Manufacturers' National Bank pay to the order of Mess'rs J. & P. Garry fifteen hundred dollars.

$1,500. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *June 1st*, 1867.

Manufacturers' National Bank pay to the order of Mess'rs H. H. Craigie & Co. one hundred seventy-four 21-100 dollars.

$174.21. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *June 22d*, 1867.

Manufacturers' National Bank pay to the order of M'r Rob't White two hundred fifty dollars.

$250. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

NEW YORK, *July 6th*, 1867.

Manufacturers' National Bank pay to the order of Mess'rs J. & P. Garry fifty-seven 50-100 dollars.

$57.50. JA'S K. PLACE & CO.,
By J. B. MORGAN, *Att'y.*

A. They are in my handwriting, sir, but I do not remember for what they were given.

Q. 195. Will you please state whether or not any part of the 43d-street accounts and the 5th-ave. accounts, as they now stand on the ledger of James K. Place & Co., was posted into the ledger after the 23d day of December, 1867?

A. I don't know, sir; there is no date here later than 20th November. I cannot say at what time they were posted.

Q. 196. Did you do any posting after the 23d of December, 1867?

A. I don't think I did; no, sir.

Q. 197. Are the entries on the 5th ave. account all in your handwriting?

A. No, sir; very few of them.

Q. 198. In whose handwriting are they?

A. Gilbert S. Keyes' handwriting.

Q. 199. Is not that yours?

A. Yes, I wrote that, "Cash, $1,000."

Q. 200. In whose handwriting is the last entry under date November 20th, 1867?

A. Mine.

Q. 201. When did you write that?

A. Well, I don't know, sir, the exact date, but I think it was
632 in November, because I left that concern on the 1st of December and did not go back there any more.

Q. 202. Now look at the 43d st. account, the entry under date November 19th, 1867, to E. L. Roberts, $3,100, and say in whose handwriting it is.

A. Posted in my handwriting.

Q. 203. When was that made?

A. I can't tell whether it was made on that day or not.

Q. 204. Please to take the checks which have been identified by you as being in your handwriting, as far as the signature is concerned, and state whether you find them entered on the cash-book and ledger of James K. Place & Co.; and whether or not those checks were actually issued and delivered at the times at which they bear date, and were paid out of the funds of the concern, and on what account they were given.

A. I have made the examination requested, and find the checks correspond with the entries on the cash-book, check-book, and ledger, and to have been given for the purchase of property on the corner of 5th avenue and 47th street, and property on West 43d st.

Q. 205. Look at the entries on page 144 of the journal of J. K. Place & Co., now produced and shown you, as follows:

"E. B. Place: To Place Sugar Refinery, for mortgage on refinery in South street, in favor of M'r's Jane C. Place, dated March 23d, 1867. 50,000."

"E. B. Place, bond and mortgage: To M'r's J. C. Place, bond and mortgage for transfer of mortgage on 132 and 134 Front st., June 1, 1867. 78,600."

"Smith & McKenna: To Small & Co., for amount credited them 29th June, as cash. 3,000."

"Joseph S. Barker to M'r's Susan A. Place, for mortgage on above property, dated May 1, 1867. 30,000."

and state whose handwriting they are in and when they were made.

A. They are in my handwriting, and as the date at the head of that and the succeeding page is Aug., 1867, I think the entries were made in that month.

Q. 206. When was the erasure in the last entry made?

A. I can't fix a date, except that it was some time subsequent to the original entry.

633 Q. 207. Please look at the original checks annexed to the depositions of Francis B. Wallace, James Morgan, J. Walter Clark, Henry T. Cox, William Man, John Darcy, John L. Roberts, j'r, Martin W. Emmons, Edwin Holmes, C. O. Ficht, Septimus Higgins, J. E. Macfarland, Stephen Philbin, John Shuster, Cornelius Doyle, Robert J. Livingston, Joseph Garry, James Howell, j'r, Ebenezer L. Roberts, Robert White, Samuel Oliver, Walter Jones, William P. Stymus, Cha's F. True, and Peter Puels, and say whether or not any of the checks attached to those depositions are signed in the handwriting of any person other than Lewis W. Burritt, j'r, or James K. Place, or yourself. Do you recognize any signed in any other handwriting?

A. They are all signed either by M'r J. K. Place or Lewis W. Burritt, j'r, or myself.

Q. 208. Were you examined as a witness in proceedings against J. K. Place, prosecuted by J. L. Phipps & Co. under the act of the legislature of New York, entitled "An act to abolish imprisonment for debt and to punish fraudulent debtors"?

A. I was.

Q. 209. On whose behalf were you sworn as a witness?

A. I think it was Phipps's, but I am not quite sure.

Q. 210. By whom were you examined?

A. Judge Pierrepont.

Q. 211. Whose counsel was he?

A. Phipps's, I believe.

Q. 212. Were any of the books of J. K. Place & Co. produced on that occasion?

A. Yes, sir.

Q. 213. State what.

A. I can't remember any now, except the trial-balance book.

Q. 214. Which was that; the journal?

A. No, sir; I don't remember whether the journal was there or not;

I remember we had a book we called the trial-balance book, where there was nothing but figures.

Q. 215. Didn't it state what items the figures applied to?

A. No further than by the ledger-page being marked opposite each item.

Q. 216. Didn't it contain the item?

A. No, sir.

Q. 217. The name of the property?

A. No.

Q. 218. Was the journal produced?

A. I don't remember now; I have forgotten what course the examination took any further than I remember that book, the trial-bal-
634 ance book. We had a great deal of fun over it; that is what calls it to my mind.

Q. 219. Did you take any books of J. K. Place & Co. away from their store in November, 1867; and, if so, where did you take them?

A. No; I didn't take them away from the building.

Q. 220. I mean away from their store.

A. I took them up-stairs to Richard S. Place's office—some of them.

Q. 221. Upon what inducement?

A. The inducement was that it was necessary to work upon them, and the United States marshal or the sheriff would not stay down there nights; and I took the books up there so that I could work upon them.

Q. 222. How many people knew where they were?

A. Richard S. Place knew and I knew; I ain't positive about anybody else knowing.

Q. 223. How long did they stay at Richard S. Place's?

A. I do not know of my own knowledge.

Q. 224. Did you see them at any other place than that?

A. No other place excepting the court-room.

Q. 225. What became of the receipts of J. K. Place & Co. from the 19th November, 1867, to 23d December, 1867?

A. I don't know.

JOHN B. MORGAN.

Subscribed and sworn to before me this 7th May, 1870.

R. E. STILWELL,
Special Examiner, &c.

LEWIS W. BURRITT, J'r, being duly sworn as a witness on behalf of the plaintiff, testifies as follows:

Q. 1. Please look at the paper now produced and shown you, and hereto annexed, and state in whose handwriting are the words at the foot of it, "Lewis W. Burritt, j'r," as to both signatures?

A. In my handwriting.

Q. 2. When was it put there?

A. I don't remember.

Q. 3. Whose handwriting are the words "James K. Place" in?

A. I should say that was James K. Place.

Q. 4. In whose handwriting are the words "James D. Sparkman"?

A. That of James D. Sparkman.

635 Q. 5. Were their signatures and yours affixed to that paper at the same time?

A. About the same time.

Q. 6. You could not say at the same time, could you?

A. No, sir.

Q. 7. Did you see James K. Place and James D. Sparkman execute that paper?

A. Yes, sir.

Q. 8. And did you set your name thereto as the subscribing witness?

A. Yes, sir.

Q. 9. Have you looked at the original checks annexed to the depositions heretofore taken in this cause of Joseph Garry, E. Holmes, Francis B. Wallace, James Morgan, John Shuster, James E. McFarland, R. J. Livingston, C. Doyle, Septimus Higgins, Charles F. True, Peter Puels, James Howell, j'r, C. O. Ficht, Ebenezer L. Roberts, Robert White, Samuel Oliver, Walter Jones, John Darcy, Martin W. Emmons, John L. Roberts, j'r, William Man, Henry T. Cox, Stephen Philbin, J. Walter Clark, and William P. Stymus; and, if so, state whether or not any of said checks are signed in the handwriting of any person other than James K. Place, Lewis W. Burritt, j'r, or John B. Morgan.

A. There are none.

Q. 10. The account, on page 53 of the ledger, with Marsh, Coe & Wallis, see in whose handwriting it is.

A. The heading is in the handwriting of John B. Morgan, and the first item, "Nov. 21, to cash," is his handwriting; the balance of the entries are in my handwriting.

Q. 11. Why did you charge Marsh, Coe & Wallis with the items there charged to them?

A. I understood the amounts were paid into them.

Q. 12. How did you get that understanding?

A. From M'r Henry N. Titus.

Q. 13. Did you have a memorandum of those amounts in writing?

A. He had a memorandum which he showed to me.

Q. 14. Didn't he give it to you?

A. No, sir.

Q. 15. Were there no entries made other than from that memorandum?

A. No, sir; except the charge, Nov. 26, $21,000; I don't know what that entry was made from.

Q. 16. Did you, yourself, personally deliver any cash or notes to Marsh, Coe & Wallis?

A. No, sir.

Q. 17. In what form was that cash there charged paid to them,
636 if paid at all; that is, was it in checks of customers or in bills?

A. I think it was all paid in checks or notes.

Q. 18. Checks of customers?

A. Yes, sir; there may have been a check of the firm paid to Marsh, Coe and Wallis in one of these amounts; the amount of $21,000, November 20, 1867, charged to Marsh, Coe & Wallis, may have been a check of the firm, and is not embraced in the memorandum.

Q. 19. Were you examined as a witness in the proceedings prosecuted against James K. Place under the Stilwell act, by J. L. Phipps & Co.; and, if so, who examined you as a witness?

A. Yes, sir; Judge Pierrepont, and, I think, M'r Thomson. I think he was also present at the examination, and asked some questions.

Q. 20. Was anything, on that examination, said about the Fifth-avenue property?

A. I don't remember.

Q. 21. Were any of the books produced; and, if so, which of them?

A. Yes, sir; I think the ledger, journal, and cash-book were produced.

Q. 22. What part of the journal was referred to?

A. The trial-balance.

Q. 23. Of 1866?

A. Of December 31st, 1866.

Q. Who produced it, and what use was made of it?

A. I produced it; questions were asked in reference to it by the counsel for Phipps.

Q. 24. Was it read and looked over by any, and what, counsel?

A. I think it was looked over by M'r Pierrepont.

Q. 25. What did you state concerning it as to what it was; that is, as to its stating or not stating the assets and debts of the concern?

A. I don't remember.

Q. 26. Did you give any explanation; and, if so, what?

A. I presume I did, but I don't remember what it was.

Q. 27. Do you remember giving any explanation?

A. I remember the fact of its being referred to, but not further.

Q. 28. As showing what, if anything?

A. I don't remember what use was made of it, no further than that it was referred to at the examination.

Q. 29. Were you at any time in the course of that examination asked to produce a list of the assets and liabilities of the concern?

A. I am under the impression that I was asked to figure up the amount of their assets and liabilities.

Q. 30. Were you, or not, asked to state the amount of their
637 debts and assets in 1866, or to produce a list of such liabilities and assets?

A. I don't remember that I was.

Q. 31. For what purpose did you produce the trial-balance of 1866?

A. I think they were requested to be shown.

Q. For what purpose?

A. I don't know now.

Q. 32. On what part of *of* the journal is that trial-balance?

A. December, 1866; it commences at page 98 of the journal, and extends to page 107, inclusive.

(The trial-balance referred to has already been marked "Sedgwick against Place, January 10, 1870, J. B. Morgan," and is offered in evidence.)

LEWIS W. BURRITT, J'R.

Subscribed and sworn to before me this 9th day of May, 1870.

R. E. STILWELL,
Special Examiner, &c.

(Here follow the articles of partnership printed at fo. 256.)

EXHIBIT 53.

Certificate of formation of special partnership of Sparkman, Place & Co.

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, greeting:

Know ye that we, having examined the records and files in the office of the clerk of the county of New York, and clerk of the supreme court

of said State for said county, do find a certain notice of limited partnership there remaining, in the words and figures following, to wit:

(SEAL OF THE SUPREME COURT,)
(STATE OF NEW YORK.)

LIMITED COPARTNERSHIP.

These presents certify that we, the undersigned, James K. Place, of the city of New York; James D. Sparkman, of the city of New York; Charles Place, of the city of New York, and James T. Sparkman, of the city of New York, have formed a limited copartnership, pursuant to the provisions of article first, title first, chapter fourth of part second of the revised statutes of the State of New York, entitled "Of limited partnerships," and the acts amendatory thereof.

638 That the name of the firm under which said copartnership is to be conducted is Sparkman, Place & Company.

That the general nature of the business intended to be transacted by the said partnership is the grinding and powdering drugs and medicines, and manufacturing and dealing in corks and whiting.

That James K. Place, who resides in the city of New York, is the special partner, and James D. Sparkman and Charles Place and James T. Sparkman, who severally reside in the city of New York, are the general partners.

That the amount of capital contributed to the common stock by the said James K. Place is the sum of thirty thousand dollars cash

That the said copartnership is to commence on the tenth day of January, in the year one thousand eight hundred and sixty-seven, and is to terminate on the thirty-first day of December, in the year one thousand eight hundred and seventy-one.

In witness whereof we have hereunto set our hands this ninth day of January, in the year one thousand eight hundred and sixty-seven.

JAMES K. PLACE.
JA'S D. SPARKMAN.
CHARLES PLACE.
JA'S T. SPARKMAN.

STATE OF NEW YORK,
City and County of New York, ss:

On this ninth day of January, one thousand eight hundred and sixty-seven, personally appeared before me James K. Place, James D. Sparkman, Charles Place, and James T. Sparkman, severally known to me to be the same persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same.

JAMES J. CAMPBELL,
Notary Public.

STATE OF NEW YORK,
City and County of New York, ss:

James D. Sparkman, Charles Place, and James T. Sparkman, the general partners in the foregoing certificate named, being severally duly sworn, depose and say that the sum of thirty thousand dollars specified in the above certificate to have been contributed by James K. Place, the special partner, to the common stock of the partnership in

said certificate named, has been actually and in good faith paid by him in cash.

JA'S D. SPARKMAN.
CHARLES PLACE.
JA'S T. SPARKMAN.

Severally sworn this 9th day of January, 1867, before me.
JAMES J. CAMPBELL,
Notary Public.

639, 640 To be published in the Atlas and Citizen.
W'M C. CONNER, *Clerk.*

(Endorsed:) Filed January 10th, 1867.
[5 ct. stamp, cancelled.]

All which we have caused by these presents to be exemplified, and the seal of our said supreme court to be hereunto affixed.

Witness George G. Barnard, justice, at the city of New York, the eleventh day of June, in the year of our Lord one thousand eight hundred and seventy, and of our Independence the ninety-fourth.

[SEAL.] CHARLES E. LOEW, *Clerk.*

I, George G. Barnard, presiding justice of the supreme court of the State of New York for the city and county of New York, do hereby certify that Charles E. Loew, whose name is subscribed to the preceding exemplification, is the clerk of the said county of New York, and clerk of said supreme court for said county, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal of our said supreme court, and that the attestation thereof is in due form.

Dated New York, June 11th, 1870.

GEORGE G. BARNARD.

STATE OF NEW YORK,
City and County of New York, ss:

I, Charles E. Loew, clerk of the supreme court of said State in and for the city and county of New York, do hereby certify that George G. Barnard, whose name is subscribed to the preceding certificate, is presiding justice of the supreme court of said State, in and for the city and county of New York, duly elected and sworn, and that the signature of said justice to said certificate is genuine.

In testimony whereof I have hereunto set my hand and affixed the seal of the said court this 11th day of June, 1870.

[SEAL.] CHARLES E. LOEW, *Clerk.*

641 EXHIBIT 54.

M'r's Sparkman's will.

Know all men by these presents that I, Mary Ann Sparkman, of the city of New York, have made, published, and declared, and by these presents do make, publish, and declare, my last will and testament, in manner and form following, that is to say:

I give, devise, and bequeath unto my executors hereinafter named, and the survivers and survivor of them, all the estate, real and personal,

of whatsoever kind, and wheresoever situated, that I may be seized, possessed of, or entitled to at the time of my death, and the rents, issues, and profits; in trust, nevertheless, and for the uses and purposes following, that is to say:

To invest the same, or the proceeds thereof, in some safe and productive manner, retaining any investments made in my life-time that they may deem proper, and from time to time to change any investments made by me in my life-time, or that shall be made by them, and to collect and receive the whole rents, issues, and profits thereof of my said estate, real and personal, and of the proceeds thereof, and after paying therefrom all taxes, expenses of making investments, and other costs and charges attending the management of my said estate, to use, apply, and appropriate the remainder of said rents, issues, and profits, as the same shall be received, to the support and maintenance of my beloved husband, James D. Sparkman, for and during his natural life, expending annually for his support and maintenance the whole of the said remainder of said rents, issues, and profit; and the said provision for my said husband to be free and clear of and from any and all claims of his creditors.

642

Upon the death of my said husband, James D. Sparkman, to pay and divide the whole of my said estate, real and personal, and the proceeds thereof, to and among his children, in equal portions, share and share alike; and if either of his children shall depart this life in the life-time of my said husband, leaving a child or children him or her surviving, the share or portion of the child so dying to be paid to his or her child or children.

I hereby authorize and empower my said executor to sell and convey any real estate that I may be seized or possessed of at the time of my death.

I hereby nominate, constitute, and *and* appoint my brothers, James K. Place and Charles Place, and my son, James T. Sparkman, executors of my last will and testament, hereby revoking and annulling all other and former wills by me made.

In witness whereof I have hereunto set my hand and seal this twentieth day of July, in the year one thousand eight hundred and sixty-six.

MARY A. SPARKMAN. [L. S.]

Signed, sealed, published, and declared by the said testatrix, as and for her last will and testament, in our presence, who, at her request, in her presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

M't's AMELIA A. VERMILYE,
Cor. 125th St. and 3d Avenue.
MARY JOYCE,
Livingston St. Brooklyn, L. I., N. Y.

[U. S. stamp, $90, cancelled.]

COUNTY OF NEW YORK,
Surrogate's Office, ss:

Be it remembered that on the day of the date hereof the last will and testament of Mary Ann Sparkman, being the foregoing written instrument, was duly proved before Gideon J. Tucker, surrogate of said county, according to law, as and for the last will and testament of the real and personal estate of said deceased, which said last will and testament and proofs are recorded in this office in liber 166 of wills, 348 page.

643, 644

In testimony whereof the surrogate of said county has hereunto sub-

scribed his name and affixed his seal of office the 28th day of November, in the year of our Lord one thousand eight hundred and sixty-six.

[L. S.] GIDEON J. TUCKER,
Surrogate.

(The original record here contains two original depositions of James T. Sparkman, of which copies are annexed to Buckmaster's deposition, as printed at fo's 361 to 467, supra.)

645 HENRY N. TITUS, of Yonkers, in the county of Westchester, being duly sworn, deposes and says as follows:

My firm is Gibson, Beadleston & Co.; the firm is composed of William Augustus Gibson, William Henry Beadleston, and Henry N. Titus; business, bankers and brokers; place of business, 50 Exchange Place, New York. I was an employé of James K. Place & Co. I think for 18 months; it ran along up to July, 1868; I was retained by the house to settle up their foreign matters; I was never in the employ of their assignees; I was in the employ of James K. Place & Co. until December, 1867, mostly in the foreign business, and the credits and exchanges and gold; I was familiar with their gold transactions; they bought and sold gold; the result of their gold dealings was very disastrous; I hardly could give a correct answer as to the extent of their losses in gold; but prior to my taking hold of it I would almost venture to say that their losses were $150,000; I know they were very heavy; they were not so much in buying and selling as in the way that merchants do; they
646 sell goods on a currency basis and go short on gold; the market, on several occasions, went very heavily against them; they lost on "shorts."

I think I went with the house in March or April, 1866, before they failed; I took hold of their gold business, I think, in the middle of May or the first of June, 1866; I knew of their losses by looking over their books; I remarked, "You are paying very severely for gold that you borrow, and you are paying commissions when there is no necessity of doing either; as an associate member of the gold-room, I can just as well attend to this gold business as for you to employ half a dozen brokers, and they making capital out of you both ways." I don't think M'r Place was aware of how the thing was running until I called his attention to it; I wasn't aware that the house was insolvent two hours before the thing happened; certainly forty-eight hours before they stopped I had no idea of it; I became a member of the firm of Gibson, Beadleston & Co. only a year and a few days ago, twelve months ago the first of January; I think I had something to do with taking up a loan of gold made by J. K. Place & Co. through Daniel S't Amant; it was a time-loan; I think that I went to Gibson, Beadleston & Co. and asked them if they would pay S't Amant $35,000 gold, and he would give them currency or securities, whatever he had, and they had the option, as we all have in the street, of selling or realizing at the maturity of the loan; that is the custom; I requested them to give S't Amant $35,000, or whatever it was, and get from him currency or securities, whatever he had; I didn't know exactly what he did; the fact is, I have a very indistinct recollection of the transaction.

Gibson, Beadleston & Co. took up the loan, I think. I knew at the time what securities they got. I know there was some Metropolitan Bank stock, but what it was I could not tell. I think the securities that Gibson, Beadleston & Co. got were sold to pay for the gold that they gave. I imagine the Metropolitan stock was sold.

647 M'r Beadleston gave me a memorandum; there were 45,000 1867 Government bonds, and fifty shares Metropolitan Bank stock. The bonds were sold, and brought $48,560.45, and the gold cost $49,325.03. The fifty shares of bank stock were left with Gibson, Beadleston & Co., and an arrangement made for the loan of—rather moneys drawn against it—to the amount of $6,124.45, making $55,449.48 to the debit of the transaction, and the stock when closed realized $6,896.18, making the credit side of the bonds and stock $55,456.63.

Q. 1. Which way was the balance?

A. There was a difference of $7. The bonds sold for 108 and 107⅞. I hardly know where the funds of J. K. Place & Co. were kept between the date of their failure and the date of their assignment; some of the funds were with Marsh, Coe & Wallis; my impression is (although I am not clear on it) that they had no money. I hardly know how they got into the custody of Marsh, Coe & Wallis. I think I took up a package of securities of some kind or other; whether it was commercial paper, or receipts, or what it was, I don't know, but I remember something of the kind, the taking up of a packet of securities; this was prior to the assignment; I don't remember whether I did so by the direction of M'r Burritt or M'r Place; I did not take any money there; there was some collections that came in, that I took up, namely, checks, I think; I made a memorandum of them from time to time, and gave a memorandum over to the assignees when they made an assignment; I kept a memorandum of all the collections and everything of the kind, and I handed that memorandum over, and M'r Burritt has, or should have, a detailed memorandum of everything that passed through my hands; I do not remember the amount; I paid no attention to it; there were several collections; I should say probably $15,000.

648 M'r Sheffield held the position of salesman. He and I talked about the condition of the concern in November, 1867, or some time about November; it was prior to their suspension. M'r Sheffield came in the office one day and made some remark about their paper selling so high, and asked me if I could give any reason for it. I was somewhat surprised, and said, "No, I could not believe it." Said he, "There is no danger about the house, is there?" Said I, "No," I didn't entertain the slightest. I figured up what the probable loss might be against the amount that was called "capital" in their books, and I said I didn't think it was possible; that was probably within a fortnight of their suspension. I don't remember what price was mentioned as the price of their paper—fifteen per cent., I think, or something of that kind, about one and a quarter per cent. a month; I could not answer as to whether that was the price their paper was selling at. I don't think M'r Sheffield said that was the price at which they were selling. He merely said that their paper was selling at a high rate. I learned afterwards by conversation, however, with brokers in the street, that some of their paper had been offered at about that price. We did not hear anything about cargoes of merchandize having been hypothecated by them. I thought their loss on depreciation of stocks and bad debts might be a quarter of million of dollars. I don't know what I assumed to be their capital according to their books, but I thought it was largely in excess of that. I never had the curiosity to look but twice—I mean the amounts set to the credit as capital of each partner; the amount standing to the credit of the capital of each partner would show that they had a surplus, even assuming that they had lost $250,000. The period of my calculation of the loss covered only from the time I entered the house, probably fifteen months. I went into the house, I

think, a few months after Ephraim went out—1866, I think it
649 was—and I computed the loss during that period at $250,000. I did not ascertain that from the books. I just sat down and made a calculation of the losses on teas, coffees, &c., and on gold also—the losses of the house. I think that Sheffield and I figured up that there might be a quarter of a million dollars. Of course we didn't go into it carefully; it was simply a conversation between us, and I was even so persuaded that a quarter of a million loss would not hurt them materially that I didn't think of it carefully. I thought they would be abundantly able to meet their obligations. I did not know that the losses of the firm in 1866 were upwards of $200,000. I did not ascertain that from the books; I suppose if I had had access to the books, and could have gone into it carefully, I could have ascertained it, but otherwise a casual glance of the books would not show it. If they had lost $200,000 in 1866 they had ought to have been solvent still.

Q. 2. Why?

A. Taking the balance-sheet, which I was told showed a very much larger surplus than that when Ephraim went out. I was given to understand that Mr. E. B. Place was worth between four and $500,000 when he went out, and assumed, if he was worth that, his brother James was worth a corresponding amount. Up to the time of their suspension I believed them to be solvent; after their suspension for some little time I believed that they would pay a very liberal dividend, if not the whole. So far as I know there is no reason why their estate has not yielded enough to pay their debts in full. I do not know of any losses which would reduce their assets below their debts. If their assignees, in fact, obtained possession of property not exceeding $250,000 in value, and their indebtedness was one million dollars, I have no means of telling where the remaining $750,000 had gone to. I have no way of estimating whether the losses amounted to $750,000 or not. I do not know of
650–670 any property which anybody has got of theirs which did not reach the hands of their assignees. I am somewhat familiar with book-keeping.

Q. 3. Do you know what the account of premium on specie on their books represents?

A. There is a good many ways of answering that. I know an account that will show a premium on specie, estimating the price of gold at different dates.

Q. 4. Suppose they incurred a liability payable in gold, or on a gold basis, say for merchandize or real estate, to the amount of $100,000, for which they did not pay the cash in gold or otherwise, but made the investment on a credit, what would be the proper method of entering that transaction on the books?

A. There would be no entry made at all, unless they borrowed $100,000 gold, and converted it into currency, with the idea, when their engagement became due, of covering that $100,000 at a less rate than they borrowed it at. In other words, they borrowed, one will say, at 130, which gave them $130,000 in currency. That engagement matured twelve months afterwards, and the contemplated gain in that would be to get the gold at a corresponding deduction, say twenty or fifteen. If they bought a ship for $100,000 gold, and paid with gold, then the ship would be debited with $100,000 gold, and that would indicate an investment of the concern to that amount; and if, instead of paying the gold, they merely promised to pay, the account would still be debited with the sum which they promised to pay, and would appear to owe them $100,000 gold. If they contemplated buying gold at 130, in order to show the

cost of the investment in currency, they would debit that account with $130,000, and would probably credit that premium to profit and loss, or premium on specie, and there would then be to the credit of premium on specie, or profit and loss, $30,000. That would indicate an intended expenditure or liability of the concern, rendered necessary by the necessity of raising gold for that ship. If I found to the credit of the account "premium on specie" a number of items, amounting in the aggre-
671 gate to $350,000, on the balance-sheet, that would indicate that it had been made. It would increase the cost of that ship. It would just add to the cost of that ship $30,000. There are a dozen different ways of arriving at the same thing. If, instead of buying one ship, you bought four at $100,000 each, and you expected to buy the gold to pay for them at a premium of 30 per cent., the account of these investments would be charged with the premium on specie, and would appear to owe $120,000, we would debit that ship with the premium on specie.

Q. 5. What account would you credit that to?

A. You would have to credit it to the ship. According to my method of book-keeping, if you buy a ship for $100,000 gold, and you had to pay $130,000 currency, you would charge the $30,000 to the account of what ship, and what account I would credit it to would depend upon my closing the transaction. If I was to close it I would put it to the credit of "specie." In that case I would have put it to the credit of "premium on specie." Then the credit would indicate the sum of money raised to meet that liability. If the aggregate of credits to "premium on specie" amounted to $350,000 at a given period, that would indicate the amount of money you would have to spend in order to raise the specie to meet your specie liability, and therefore it would be among the liabilities of the concern. If you struck that $350,000 out from the enumeration of the liabilities of the concern, I should say I would have to strike out a corresponding amount from its assets, so as to leave the gold liability equal to the gold assets. The object of keeping an account called "premium on specie" is simply to reduce their gold liabilities to currency, according to book-keepers' method. I know nothing more about the shares of the Metropolitan Bank stock.

H. N. TITUS.

Subscribed and sworn to before me this 11th May, 1870,
R. E. STILWELL,
Special Examiner, &c.

672 William A. Gibson, sworn for plaintiffs, and being examined by plaintiffs' counsel, deposes and says:

In November, 1867, my firm was Gibson, Beadleston & Co., at 50 Exchange Place, New York, bankers and brokers; we had transactions with M'r H. N. Titus on behalf of J. K. Place & Co.; we didn't open our account with them, but we opened it with H. N. Titus; the transaction was buying and selling gold, following instructions given us by M'r Titus.

I paid to, I think, Daniel S't Amant between thirty-five and $36,000 in gold and received from him $45,000 Government bonds and 50 shares Metropolitan Bank stock; the Government bonds I sold; the proceeds of them about paid for the gold which I had advanced; the Metropolitan Bank stock I kept and advanced to M'r Titus the value of it, about. Subsequently, by his order, I sold the bank-stock and got back what I had advanced; I think the resulting difference was, as I remember, very small indeed; just a fractional amount, which I paid to him.

November 30th, 1867, I paid the amount in gold to Daniel S't Amant, $35,329.58, and got $45,000 five-twenty bonds; we advanced the money to M'r Titus on that bank-stock, I think, on the same day; the books will show certainly; I sold it in the market; we borrowed some money of Sheffield on securities; it was some time after the assignment; some time after the difficulties occurred; I understood at the time it was money he had—part of the estate of J. K. Place & Co.; that was my understanding; I don't think there was any application made; I think there was a suggestion that there was money laying there idle; I cannot remember who made the suggestion; we did not borrow the money for any particular customer; we borrowed it on securities belonging to one or more customers, I don't know who.

WM AUG. GIBSON.

The deposition, being read to the witness, is subscribed and sworn to by him before me.

R. E. STILWELL,
Special Examiner, &c.

673 John E. Williams, called and sworn as a witness on the part of the plaintiff, deposes and says:

In 1867 I was president of the Metropolitan National Bank; James K. Place was a director in that bank in the year 1867, and until he failed in the autumn of the year; his firm, James K. Place & Co., kept an account in that bank and frequently obtained discounts; there was a quantity of paper discounted for this firm which was understood to be accommodation-paper, or to have an accommodation-endorser. There was more or less of that paper almost constantly under discount, and it ranged in amount from fifty to $100,000, or more; it was signed J. K. Place & Co.; endorsed E. B. Place, generally; sometimes endorsed by J. D. Sparkman, but M'r Sparkman's name was not used in the latter part of the transactions, or latter transactions. James K. Place spoke generally to me respecting security held by E. B. Place for the latter's endorsements; he spoke generally to me of such security having been given, and especially of his brother being good, but more particular information was given to the directors' committee, M'r Solon Humphrys and M'r Francis M. Babcock. Within two months of the date of his failure, on being asked by me how he stood, he replied his firm would have to lose $700,000 before they would be unable to pay their debts; after a few minutes he said, "I will correct that statement and say $600,000 we should have to lose, certainly, before we could fail to pay our debts."

I have little practical knowledge of the mode which merchants and business men adopt to ascertain their financial condition; but, having a pretty large experience in the mode of ascertaining the condition of banks, I should say, generally, that merchants and business men could have no other general mode than bankers to ascertain the condition of banks, viz, to keep their accounts correctly and examine them carefully.

(The defendants' counsel objects, in due season, to the whole of the foregoing testimony, and each and every clause thereof, as immaterial, irrelevant, and incompetent.)

JOHN E. WILLIAMS.

Subscribed and sworn to before me May 27, 1870.

R. E. STILWELL,
Special Examiner, &c.

674 EXHIBIT 55.

United States district court.

JOHN SEDGWICK, ASSIGNEE, &c.,
vs.
JAMES K. PLACE AND OTHERS.

It is stipulated and agreed that the annexed abstract of proceedings in, and of attachments, orders, and process of, the supreme court of the State of New York may be read in evidence on the hearing of this cause, in the same manner and with like effect as the said original attachments, orders, and process, and the original records of such proceedings, respectively, reserving, however, to the defendants the right to raise the same objections to such abstract, and the several parts thereof, which they might raise to such original records, attachments, order, and process, respectively, upon such records being produced and offered in evidence; it being, however, hereby admitted that such abstract is a substantially correct abstract of original records, orders, process, attachments, and proceedings, which actually took place or were filed as stated in such abstract; but the production of the originals or full copies of the same is hereby waived; but either party on the hearing may refer to the originals or certified copies thereof, or of any of them.

Dated January 20th, 1870.

MARSH & WALLIS,
Att'ys for Burritt & Sheffield.
FOSTER & THOMSON,
Att'ys for Phipps and others.
E. DELAFIELD SMITH,
Attorney for Cullen, Jr.
J. N. PLATT,
Att'y for Sparkman.
J. K. HAYWARD,
Sol. for Executors.
WILSON & WALLIS,
Att'ys for Def't Barker, &c.
C. W. BANGS,
Pl'ff's Solicitor.

675 Supreme court.

JAMES BROWN, STEWART BROWN, JAMES M. Brown, Charles D. Dickey, Howard Potter, John Crosby Brown, Clarence S. Brown, Mark W. Collett, Francis A. Hamilton, Stewart Henry Brown, and Herman Haskin
against
JAMES K. PLACE AND JAMES D. SPARKMAN.

Action to recover for proceeds of goods received by defendants under letters of credit, the plaintiffs claiming an absolute property in such goods and the proceeds thereof, as their goods entrusted with the defendants on storage, with liberty to sell the same for or on account of the plaintiffs, and claiming to recover such goods and proceeds specifically.

1867.

NOV. 21.—Summons and complaint served on both defendants.
NOV. 21.—Injunction issued.
" 23.—Defendants appeared.

DEC. 5.—Warrant of attachment against the property of James K. Place on the ground that said James K. Place had assigned and disposed of a store, &c., on the corner of Front and Pine streets, in the city of New York, to Hamilton Wallis, which was afterwards conveyed by said Wallis to Susan A. Place, with the intent to defraud creditors. Attachment issued Dec. 5, 1867, to the sheriff of the city and county of New York, and vacated and discharged by consent in May, 1868.

1867?

DEC. 2.—Order of arrest issued to the sheriff of the city and county of New York, against James K. Place and James D. Sparkman, on the ground that they had fraudulently misapplied
676 and withheld, as factors or agents of plaintiffs, and while acting in a fiduciary capacity, the avails of certain property belonging to plaintiffs. Bail ordered in $50,000.

" " Defendant arrested and bail given and justified same day; and order of arrest was discharged and vacated by consent in May, 1868.

" 13.—Defendants answered.

" " James M. Brown, by consent of the defendants, appointed receiver of the unsold portion of 4,793 bags of coffee mentioned in the complaint, and uncollected proceeds of such coffee. The receivership to be without prejudice to the rights of the parties.

" 16.—Case referred to Joseph S. Bosworth on motion of defendants.

1868.

Feb. 11.—Supplemental complaint served and answer thereto. Referee's report filed.

" " Referee's report confirmed, and plaintiffs adjudged entitled to the possession, ownership, and control of several cargoes of coffee, received by ships Leonore, Bravo, and Georgina, and of the avails and proceeds of the same.

Also judgment for $83,653.89, for avails of coffee received by defendants on storage, as above stated, and by them sold, the proceeds of which had become so mixed with defendants' moneys as to be past identification, and for costs and allowances.

N. Y. supreme court.

JOHN LEWIS PHIPPS, CHARLES PAUL PHIPPS, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhoffer, and Arthur Edward Phillips
against
JAMES K. PLACE AND JAMES D. SPARKMAN.

November 23, 1867.—Action brought to recover proceeds of
677 cargo of coffee obtained by defendants from plaintiffs, on a receipt given by defendants for such coffee, plaintiffs claiming $117,000 and interest from November 23, 1867.

November 23.—Order of arrest issued to the sheriff of the city and county of New York against both defendants, which was afterwards vacated.

November 27.—Warrant of attachment issued to the sheriff of the city and county of New York against the property of James K. Place

on the same ground as in the case of Brown and others against Place & Sparkman, as above stated, and on other grounds.

December 10.—Notice of the issuing of said attachment and the pendency of said action filed in the office of the clerk of the city and county of New York, in the words and figures following:

Notice is hereby given that an action has been commenced in this court upon a complaint of the above-named plaintiffs against the above-named defendants, and that a warrant of attachment has been issued against the property of the defendant James K. Place, as a debtor who has assigned and disposed of his property with intent to defraud his creditors, and that the premises in the city and county of New York affected by the said warrant of attachment were, at the time of the commencement of this action, and at the time of filing this notice, situate in the last-mentioned county, and described as follows, to wit:

All those lots of land situate at Harlem, in the twelfth ward, in the city of New York, lying together between the Sixth and Seventh avenues, and between One hundred and thirty-first street and One hundred and thirty-second streets, and bounded as follows, to wit: Southerly by One hundred and thirty-first street; northerly by middle line between One hundred and thirty-first and One hundred and thirty-second streets; easterly by a line drawn parallel with the Sixth avenue, one hundred and twenty-five feet therefrom; and westerly by a like parallel line, distant one hundred and seventy-five feet from Sixth avenue; being two lots, and each containing twenty-five feet in width and ninety-nine feet eleven inches in depth. And also all that certain lot of land situate, lying, and being in the nineteenth ward of the city of New York, designated by the number forty-nine (49) on a map of certain lands of the parties of the first part, entitled "Map of lands in the city of New York belonging to the trustees of Columbia Col-
678 lege in the city of New York," made by John J. Serrell, city surveyor, dated January, 1859, filed in the office of the register of the city of New York, numbered 611, and recorded in the same office, on the second day of June, 1859, in liber 782 of conveyances, page 623, a duplicate whereof is in possession of the parties of the first part, the said lot being bounded and described as follows, to wit: Commencing at the corner formed by the intersection of the westerly side of Fifth avenue with the northerly side of Forty-seventh street; thence running westerly, along the northerly side of Forty-seventh street, ninety-two feet; thence north westerly along an arc of ninety degrees of a circle, the centre of which shall be a point distant eight feet northerly from the northerly side of Forty-seventh street, and distant ninety-two feet from the westerly side of Fifth avenue; thence northerly parallel with the Fifth avenue seventeen feet five inches; thence easterly parallel with Forty-seventh street one hundred feet to the Fifth avenue; thence southerly along the westerly side of the Fifth avenue twenty-five feet five inches, to the place of beginning.

Also, all those several lots, pieces, or parcels of land situate, lying, and being in the first ward of the city of New York, which, taken together, are bounded and described as follows, that is to say: Beginning at the westerly corner of Front and Pine streets, and running thence northwesterly along the southwesterly side of Pine street eighty-six feet five inches to the land formerly of Daniel Sullivan; thence southwesterly along the land formerly of Daniel Sullivan, and on a line at right angles with Pine street, or nearly so, forty two feet six inches to land formerly of Isaac Greenwood; thence southerly along the land for-

merly of Isaac Greenwood, and on a line parallel with Pine street, or nearly so, forty-one feet six inches, to land formerly of Thomas Marston; thence northeasterly along the land formerly of Thomas Marston, and at right angles with Pine street, or nearly so, one foot ten inches; thence southeasterly and still along the land formerly of Thomas Marston, and nearly parallel with Pine street, thirty-eight feet seven inches to the northwesterly side of Front street; and thence northeasterly along the northwesterly side of Front street forty feet eleven inches, to the place of beginning. And also all that certain lot of land situate, lying, and being in the nineteenth ward of the city of New York, desig-
679 nated by the number fifty-six (56) on a map of certain lands of parties of the first part entitled "Map of certain lands in the city of New York belonging to the trustees of Columbia College, in the city of New York," made by John J. Serrell, city surveyor, dated January, 1859, and filed in the office of the register of the city of New York, numbered 611, a copy whereof is hereto annexed, and a duplicate whereof is in the possession of the parties of the first part; the said lot being bounded and described as follows, to wit: Beginning at a corner formed by the intersection of the westerly side of Fifth avenue with the southerly side of Forty-eighth street ninety-two feet; thence southwesterly along an arc of ninety degrees of a circle, the centre of which shall be a point distant eight feet southerly from the southerly side of Forty-eighth street, and distant ninety-two feet westerly from the westerly side of Fifth avenue; thence southerly parallel with the Fifth avenue seventeen feet five inches; thence easterly parallel with Forty-eighth street one hundred feet to the Fifth avenue; and thence northerly along the Fifth avenue twenty feet five inches, to the place of beginning.

New York, Dec. 10, 1867.

FOSTER & THOMSON,
Plaintiffs' Attorneys.

1868.

Jan'ry 4.—Answer of defendants served.

Feb'y 18.—Cause referred to Thomas C. T. Buckley.

" 24.—Referee's report filed.

" 27, 10 a. m.—Judgment entered on referee's report, $116,215.44. Debt and costs and execution thereon issued and delivered to the sheriff of the city and county of New York.

May 30.—Under execution the sheriff made the sale to Nicholas P. Bernard, under the following sheriff's certificates, the original of which certificates were filed in the office of the clerk of the city and county of New York, June 9, 1868, of which the following are copies:

I, John Kelly, late sheriff of the city and county of New York, do hereby certify that by virtue of a certain writ of execution, issued out of the supreme court of the State of New York, in which John
680 Lewis Phipps, Charles Paul Phipps, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhoffer, and Arthur Edward Phillips were plaintiffs, and James K. Place and James D. Sparkman were defendants, and to me directed and delivered, I did this day, in the manner provided by statute, sell at public vendue unto Nicholas P. Bernard for the sum of fifteen thousand dollars, he being the highest bidder, and that being the highest price bidden for the same, all the right, title, and interest of the said defendants, James K. Place and James D. Sparkman, of which they, or either of them, were

seized or possessed on the twenty-seventh day of February, 1868, or at any time afterwards, of, in, and to the following-described property, to wit:

All that certain lot of land situate, lying, and being in the nineteenth (19) ward of the city of New York, designated by the number forty-nine (49) on a map of certain lands of the trustees of Columbia College, entitled "Map of lands in the city of New York belonging to the trustees of Columbia College, in the city of New York," made by John J. Serrell, city surveyor, dated January, 1859, filed in the office of the register of the city of New York, numbered 611, and recorded in the same office on the second day of June, one thousand eight hundred and fifty-nine, in liber 782 of conveyances, page six hundred and twenty-three, a duplicate whereof is in the possession of the said Columbia College, the said lots being bounded and described as follows, to wit: Commencing at the corner formed by the intersection of the westerly side of Fifth avenue with the northerly side of Forty-seventh street; then running westerly along the northerly side of Forty-seventh (47) street ninety-two feet; thence northerly along an arc of ninety (90) degrees of a circle, the centre of which shall be a point distant eighty (80) feet northerly from the northerly side of Forty-seventh (47) street, and distant ninety-two feet (92) from the westerly side of the Fifth avenue; thence northerly parallel with the Fifth avenue seventeen (17) feet five inches; thence easterly parallel with Forty-seventh (47) street one hundred (100) feet to the Fifth avenue; and thence southerly along the westerly side of Fifth avenue twenty-five (25) feet five (5) inches, to the place of beginning; subject, nevertheless, to a prior mortgage on said premises to secure the payment of thirty thousand (30,000) dollars and interest; together with all and singular the appurtenances thereunto belonging or in any wise appertaining.

And I do further certify that the purchase-money, so bidden
681 as aforesaid, has been paid to me, and that the said purchaser will be entitled to a conveyance for the said premises on the thirty-first day of August, one thousand eight hundred and sixty-nine, unless the same should be sooner redeemed.

Given under my hand this thirtieth day of May, one thousand eight hundred and sixty-eight.

JOHN KELLY,
Late Sheriff.

Filed and recorded June 9, 1868, 3 h. 15 min.

I, John Kelly, late sheriff of the city and county of New York, do hereby certify that, by virtue of a certain writ of execution issued out of the supreme court of the State of New York, in which John Lewis Phipps, Charles Paul Phipps, W'm Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhoffer, and Arthur Edward Phillips were plaintiffs, and James K. Place and James D. Sparkman were defendants, and to me directed and delivered, I did this day, in the manner provided by statute, sell at public vendue unto Nicholas P. Bernard, for the sum of ten thousand dollars, he being the highest bidder, and that being the highest price bidden for the same, all the right, title, and interest of the said defendants, James K. Place and James D. Sparkman, of which they, or either of them, were seized or possessed on the twenty-seventh day of February, one thousand eight hundred and sixty-eight, or at any time afterwards, of, in, and to the following-described property, to wit: All those certain lots, pieces, and parcels of land situate, lying, and being on the southerly side of Forty-third (43) street, in the city of New

York, which, taken together, are bounded and described as follows, to wit: Beginning at a point on the southerly side of Forty-third (43) street, which is distant one hundred and twenty-five (125) feet westerly from the southerly corner of Forty-third (43) street and the Fifth avenue, and running thence southerly and parallel with the said avenue one hundred (100) feet five (5) inches to the centre of the block; thence westerly and parallel with the said street sixty-two (62) feet six (6) inches; thence northerly and parallel with said avenue one hundred (100) feet five (5) inches to the southerly side of Forty-third (43) street; and thence easterly along the southerly side of said Forty-third (43) street sixty-two (62) feet six (6) inches to the place of beginning.

682 Subject, nevertheless, to an agreement between James K. Place and James D. Sparkman, bearing date the twenty-sixth day of October, 1866, for an alley-way over a part of the most westerly of the said three (3) lots of land above described, said alley-way being nine (9) feet in width, and one-half of the same being taken from the westerly side of the said westerly lot, together with all and singular the appurtenances thereunto belonging, or in any wise appertaining.

And I further certify that the purchase-money so bidden as aforesaid has been paid to me, and that the purchaser will be entitled to a conveyance for the said premises on the thirty-first day of August, one thousand eight hundred and sixty-nine, unless the same shall be sooner redeemed.

Given under my hand this thirtieth day of May, one thousand eight hundred and sixty-eight.

JOHN KELLY,
Late Sheriff.

Filed and recorded June 9, 1868, 3 h'r 15 min.

N. Y. supreme court.

OBADIAH W. F. RANDOLPH
against
JAMES K. PLACE AND JAMES D. SPARKMAN.

1867, Dec. 11.—Suit commenced to recover $65,000 for money loaned by plaintiff to the defendants.

Warrant of attachment issued to the sheriff of the city and county of New York against the property of both the defendants, on the grounds, as stated in the attachment, that they had assigned and disposed of their property with intent to cheat and defraud their creditors.

The affidavit on which the warrant was issued alleged as follows:

That the defendant James K. Place has, within a short time past,

683 assigned and placed in the hands of the defendant Sparkman, without consideration, a large amount of personal property, consisting of coffee, amounting in value to the sum of two thousand dollars and upwards, for the purpose of preventing said coffee from being taken under said attachments against said Place, and the said defendant Sparkman took and received the same in order to prevent the same being applied to the payment of the debts of the said defendant Place.

That the said defendants have recently failed in their copartnership business, and, as such copartners, are insolvent to the amount of many hundreds of thousands of dollars; that the said defendants are converting the copartnership assets to their own use, and are refusing to give the copartnership creditors any account thereof, and are disposing of

the same, and have refused to give any information to the creditors of said copartnership when applied to for such purpose.

1868, Feb. 28.—Proceedings stayed by injunction in bankruptcy.

In the supreme court of the State of New York.

EMIL HEINEMANN AND FRANCIS PAYSON
against
JAMES K. PLACE AND JAMES D. SPARKMAN.

Action for goods sold and delivered September 12, 1867, and on account stated November 16, 1867, for such sale and delivery.

Amount of sale in gold	$58,927 64
Less paid	25,000 00
Balance	$33,927 64

Equal in currency to $47,509.97.

684 1867.
Dec. 27.—Summons and complaint served on James K. Place.
1868.
Jan'y 13.—Summons and complaint served on James D. Sparkman.
The defendant did not appear and no answer was put in.
1868.
Feb'y 17.—Judgment rendered for $48,352.02.

In the supreme court of the State of New York.

THE NATIONAL BUTCHERS & DROVERS' BANK in the City of New York
against
JAMES K. PLACE AND JAMES D. SPARKMAN.

Action on promissory note of James K. Place & Co. for $5,000, dated July 20, 1867, payable four months after date.
1867.
Dec. 28.—The defendants appeared, having been previously served with a summons and complaint.
1868.
Feb'y 3.—No answer being served, judgment was entered by default for $5,087.80.

Supreme court.

SAME
against
SAME.

685 Action on a promissory note of James K. Place & Co. for $5,000, dated July 17, 1867, payable four months after date.
1867.
Dec. 28.—Defendants appeared, having be*ing* previously served with summons and complaint.
1868.
Feb'ry 3.—Judgment for want of an answer for $5,090.72.

Supreme court.

SAME
vs.
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Action on a promissory note of J. K. Place & Co., for $5,000, dated July 17, 1867, payable four months after date.

1867.
Dec. 28.—Defendants appeared, having being previously served with process.

1868.
Feb'ry 3.—Judgment for want of an answer for $5,090.72.

Supreme court.

GEORGE WELLS, JUN'R,
vs.
SAME.

Action for money loaned.

1867.
Dec.—Action commenced by serving of summons and complaint.
" 31.—Judgment by default for $2,562.70.

686 EXHIBIT No. 56.

Proofs of debt in bankruptcy.

U. S. district court.

JOHN SEDGWICK, AS ASSIGNEE, &C.,
vs.
JAMES K. PLACE AND JAMES D. SPARKMAN.

It is stipulated and admitted that the annexed is a correct abstract of the names of persons, firms, and corporations claiming to be creditors of the bankrupts, and of the amounts claimed by such persons, firms, and corporations respectively, such abstract being made from original papers filed with the register in bankruptcy in the matter of J. K. Place & Co., and with the plaintiff as assignee in bankruptcy of James K. Place & Co., and which were claimed to be proofs of debt by the persons filing the same; such abstract being admitted solely for the purpose of showing what claims have been made in bankruptcy.

Defendants reserving to such abstract the same objections which they might make to the admissibility, relevancy, or materiality of the original papers severally, and as to whether such papers severally prove any debt, and either party to be at liberty to refer to the original on the hearing.

Dated New York, May 25, 1870.

C. W. BANG, *Pl'ff's Att'y.*
MARSH & WALLIS,
Att'ys for Def'ts Burritt & Sheffield.

Agnew & Sons, W	N. Y. City	$5,000 00
American Exchange Bank	"	4,862 50
" " "	"	5,000 00
Atlantic Mutual Ins. Co	"	23,002 63
Allin & McDonald	"	6 55
Butchers and Drovers' Bank	"	15,437 49

687	Burritt, L. W	N. Y. City	$500 00
	Bailey, John	"	29 22
	Barker, Joseph S	"	24,589 28
	Blair, W. H	"	3 39
	Barrett & Co., J. S	"	5 25
	Booth & Co., Otis W	"	125 59
	Barcelo, Vatable & Co	"	6 27
	Brown Bro's & Co	"	83,653 89
	Brown Bro's & Co	"	8,209 27
	Case & Co., R. D	"	14 13
	Canfield, M	"	23 78
	Carew & Heydon	"	3 18
	Cleveland, Case & Co	"	38 98
	Davis, Pierson & Co., by Rob't Taylor	"	1,963 50
	Duncan, Sherman & Co	"	30,527 56
	Endall, William	"	1,383 15
	Edwards & Holmes	"	3 82
	Eyre, Henry		102,819 44
	Fourth National Bank		53,223 91
	Fowler & Jova		8,626 85
	First National Bank	N. Haven, C't	25,000 00
	Foot & Lewis	N. Y. City	17 00
	Fischer & Co., C. P	"	93,657 57
	Gibson, W. H	"	628 21
	Green & Wattles	"	4 80
	Hackett & Henderson	"	1 62
	Heineman & Payson	"	48,352 02
	Hildreth, A. G	"	39 82
	Hefferman, W'm	Louisville, K'y	229 19
	James, E. L	N. Y. City	3,000 00
	King & Co., Peter V	"	16,484 61
	Lightbody, Colin	"	16 11
	Linton & Grieve	Philadelphia, P'a	45 84
	Leathem, R. H	N. Y. City	18 54
	Lemcke, H. H	"	63 57
	Manufacturers' Nat. Bank	"	104,227 19
	Merchants' Nat. Bank	Norwich	5,000 00
	Metropolitan Nat. Bank	N. Y. City	5,000 00
	Merchants' Ex. Bank	"	5,000 00
	Maitland, Phelps & Co	"	2,036 87
	Miller, Greiner & Co	Buffalo, N. Y	2,025 43
	Maitland, Phelps & Co	N. Y. City	1,459 62
	Montgomery, Js's & Jno	"	63 62
	Morris & Sherman	"	13 60
688	Nassau Bank	N. Y. City	$10,147 78
	Olendorf, Case & Co	"	330 46
	Owen, Thomas J	"	71,796 68
	Osborn, Bates & Co	"	25 38
	Pierson & Beebe	"	11 97
	Pritchard, G. W	"	6 32
	Place, Susan A	"	9,165 12
	Place, Jane C	"	54,757 94
	Place, Ephraim B	"	127,158 11
	Place, Trigg & Co	"	493 12
	Park Bank	"	21,497 91
	Parker, R	"	48 60
	Roberts, E. L	Brooklyn, N. Y	5,600 00
	Roberts, R. W	N. Y. City	28 00
	Recknagle, T. H	"	3 80
	Randolph, O. W. F	"	70,197 92
	Riley, W. H	"	7 92
	Ray & Co., Winthrop G	"	12 23
	Reade, Robert	"	10,361 24
	Sheffield & Childs	"	16 61
	Scott & Sons, W'm	"	441 03
	Sackett & Mackay	"	159 36
	Skiddy, Francis, assignee Place Sugar Refinery	"	68,007 44
	Sheffield, Tho's T	Brooklyn, N. Y	1,500 00

Spence, Montague & Co	N. Y. City	71,042 25
Schersten, Peter	"	2,750 00
Van Orden, H. D	"	2,845 83
Wyckoff, A	"	392 11
Weld & Co., W'm F	"	5,790 33
Wetmore, Cryder & Co	"	352 76
Warren, Beebe & Co	"	2 85
Wilson, Jos. H	"	3 34
Young, John L	"	10,464 75
Young & Knapp	"	8 09

Proofs against James D. Sparkman, individually.

Manufacturers' Nat. Bank	N. Y. City	$46,643 75
Buckmaster, John W	"	1,500 00
Philbin & Quinn	"	24 57
Johnson & Russell	"	101 78
Lord, Benj	"	135 00
McGoldrick, A	"	20 00
Shuster, John	"	17 00
S't Paul's M. E. ch	"	100 00
Watts, Robert	"	2,000 00
Wade, N. E. H	"	1,050 00

689 Cortlandt M. Taylor, sworn as a witness for plaintiff, deposes and says as follows:

I am a merchant at 174 Pearl street, and the firm name is Henry Eyre. In 1868, January and February, the firm of J. K. Place & Co. owed us about $100,000. The condition of that debt is unchanged. I recognize the paper now shown me. It reached me on the day on which it was written; on the 17th of January, 1868, it is dated. It was received by me on the 17th of January, 1868. It is in the handwriting of M'r Lewis W. Burritt, jun'r.

(Offered in evidence, as follows:)

J. K. PLACE & Co.,
132 & 134 *Front Street*, *New York*, *January* 17, 1868.

M'r C. M. TAYLOR, *Esq.*:

DEAR SIR: At a meeting of the creditors of James K. Place & Co., held at their office this day, you were appointed, in connection with M'r O. W. F. Randolph and M'r J. E. Johnson, with the power as a committee to investigate the affairs of James K. Place & Co. Please attend a meeting of the committee at the office of James K. Place & Co., on Saturday, 18th inst., at 11 a. m.

Yours, respectfully,

LEWIS W. BURRITT, JUN'R.

We held frequent meetings, the committee did, at the office of Mess'rs James K. Place & Co., to carry out the resolution of the creditors, to examine their books and report. The office of James K. Place & Co. was on the corner of Pine street and Front. We had had several transactions previously with James K. Place, and we came in contact with Burritt, and I knew him; I knew
690 him to be M'r Burritt. It is my impression that I had a partial acquaintance with M'r Sheffield, but I am not positive. From the time of my appointment, up to the 29th of February, 1868, I came

in contact with M'r Burritt. We employed him to make such entries as in his judgment were considered necessary to write the books up. We collected the money on the 29th, at the meeting—the 29th of February, 1868—and we paid him, if I remember right, $125. My impression, however, is that M'r Burritt employed some one else to do the work, and I think he stated at the time that it was M'r Morgan, who had formerly, and for aught I know was, a clerk of M'r Place's. I recognise the paper now produced and shown me. The signature is that of L. W. Burritt, j'r. I received that on the 28th of February, 1868.

(Paper offered in evidence, as follows:)

JAMES K. PLACE & CO.,
132 & 134 *Front Street, New York, February* 27, 1868.

A meeting of the creditors of Mess'rs James K. Place & Co. will be held on Saturday, 29th inst., at one o'clock, at their office, 132 Front street, to hear the report of the committee appointed at a previous meeting.

By order of the committee.

LEWIS W. BURRITT, J'R,
Secretary.

Such a meeting was held. During the different meetings intervening subsequent to the 18th of January we examined their books, and, from certain data taken from them, made a report, which was read on the 29th of February. Prior to that the report was handed to M'r Place, and it was read by him while in the presence of the committee immediately after the signing of the paper on the 26th of February. When the committee signed it we considered it was due to M'r Place that the report of the committee should be read by him before it
691 was submitted to the creditors at the meeting which was to be called, and he came in, and the paper was handed to him and read by him. He objected to certain remarks or some of the contents in the report, and we told him that he, of course, might write a letter protesting against the same, and, at the meeting of creditors, when the report was read, anything he might write would likewise be read; and he sent a letter, which was read at the meeting of creditors on the 29th of February. The original report was given by me, in whose custody it had been, to some one from the office of Brown Brothers & Co. All the documents in my possession were given to some one from the office of Brown Brothers & Co. Before sending the papers to the office of Brown Brothers & Co., I had a copy of M'r Place's letter made by M'r Edwards. I drafted the report of the committee of creditors. I produce the draft.

(Paper marked for identification "Exhibit 57," and offered in evidence, as follows:)

EXHIBIT 57.

Draft report of committee.

The undersigned committee, appointed 17th Jan. by the creditors of James K. Place & Co. to investigate their affairs, and confer with them

and report the result of their labors at the next meeting of the creditors, have now to report that at the first meetings which were held efforts were made to arrive at some approximate idea as to the true condition of said affairs, but it was found that the books had not been written up since the firm's suspension, and that access to some of them was refused, owing to certain legal proceedings instituted against the firm by one or more of their creditors.

The ledgers, however, being exhibited, the committee proceeded to examine them, hoping to familiarize themselves with the accounts, when, on opening at profit and loss acc't, it was noticed that it had not been closed since 1st Dec., 1865, the time when M'r E. B. Place retired from the firm and M'r J. D. Sparkman was admitted as a general partner.

692 The reasons given to the committee why the books were not closed 31st Dec., 1866, was that the business of the year resulted in loss, which it was deemed advisable not to be allowed to transpire.

On the 25th Jan. it was decided that M'r Burritt should make out on sheets of paper such entries as would be necessary to close the books, posting the entries in pencil with the ledger.

On the 8th Feb. the committee were informed that these entries were prepared, and a meeting appointed for 10th idem.

At this and subsequent meetings the following facts were elicited:

On the 1st Dec., 1865, appears the following entry:

Sundries, d'r to stock		$800,000 00
James K. Place	$600,000 00	
J. D. Sparkmam	200,000 00	
This entry must have been made to give the idea that the capital of the firm was $800,000.00, which was not the case, as on the 1st Dec., 1865, there was at—		
The credit of James K. Place		$227,301 62
" " James D. Sparkman		262,719 48
Making the capital of the firm only		$490,051 10

James K. Place's acc't.

On the 1st Dec., '65, there was at his credit		$227,301 62
On the same day his acc't is debited with his 3-4th of stock acc't	$600,000 00	
On the 31st Dec., '66, there was at his debit.	457,554 33	
Showing the am't really at his credit to be		$142,445 47
And showing that during the year 1866 he had drawn out of the firm, (including interest, $29,560.15)		$84,856 15
Am't at his credit 31st Dec., '66, brought down		$142,445 47
The books not having been properly balanced on 31st Dec., '66, no entries showing the result of the business for that year were made until 20th Nov., '67, when James K. Place's acc't is debited with his 3-4th amount of said loss, say		$153,050 68

693 Subsequent M'r J. K. Place directs an entry to be

made which would reduce his share of losses in 1866; this item, by a subsequent entry, has been reduced $25,434.12, they being principally profits in coffee per Dunmore, and teas per Lota, but as these vessels severally arrived on or about the 1st and 5th Feb., 1867, the committee do not see how these profits properly belong to the year 1866.

Showing J. K. P.'s acc't 31st Dec., '66, to the debit.....	$10,605 21
There was also at the debit of James K. Place, loan acc't, 31st Dec., '66	5,732 00
Am't paid out on 5th avenue property up to 31st Dec., '66.	61,627 00
Increasing his am't at the debit 31st Dec., '66, to	$77,964 21

No allowance is made for the am't at the debit of Place & Turlay, 31st Dec., '66, who we have every reason to believe were then insolvent.

The balance at his debit on the books 31st Dec., 1867, is.	760,897 35
Loss to be passed to his credit from the debit of stock acc't	600,000 00
Actual debit balance	160,897 35

Rising in this way:

Drawn out of the firm in 1867, (including interest, $38,900.43).....	$75,093 26	
Cost of 5th ave. property.....	100,633 00	
Of which, in '66.....$61,627 00		
" " '67 .... 39,006 00		
At his debit 31st Dec., 1866.....	$10,605 21	
		$186,331 47
Less profits credited his acc't in 1866, which belong to the business of 1867..	$25,434 12	
		$160,897 35
To which add the amount at the debit of his loan acc't..		33,231 95

694 Of which drawn in 1866..... 5,732 00
" " 1867..... 27,499 95

To which add his share of the losses for 1867, say balance at debit of profit and loss acc't..... $264,076 81	
His 3-4th..... $198,057 61	
	$198,057 61
At debit of J. K. P., 31st Dec., 1867.....	392,186 91

Since the firm stopped M'r J. K. P. has drawn out about $3,000.

J. D. Sparkman's account.

There was at his credit 1st Dec., '65.....	$262,719 48
There was at his credit 31st Dec., '66	210,305 55
Showing that he drew out in 1866.....	$52,413 93
His share of the losses for 1866 was.....	$51,016 90

His acc't is debited, under date 20th Nov., '67, with $40,800, being cost of $40,000 7.30 bonds, which appear to have been bought in 1865, but to have been in hand in Nov., '67; including above $40,000, he drew out in 1867		42,602 55
His share of the losses for 1867 was	$66,019 20	
Less passed to his acc't as profits in 1866, which belong to 1867	8,478 04	
		$57,541 16
		$151,160 61
Which would leave at his credit 31st Dec., 1867		$59,144 94

Since the firm stopped he has drawn out about $5,000.

E. B. Place's account.

There was at his credit 1st Dec., 186'		$168,529 96
The largest amount at his credit appears to have been in Nov., '65, say		306,946 74
695 For which he received in part payment, in 7.30 bonds	$34,816 78	
Mortgage on store	78,600 00	
Mortgage on sugar-house, Nov., '65	25,000 00	
Mortgage on sugar-house, May, '67	50,000 00	
On 1st July, '66, the amount at his credit is reduced to		$107,430 60
On 1st Jan., '67, the amount at his credit is reduced to		78,053 88
In August, 1867, his acc't is debited to the credit of the Place Sugar Refinery with $50,000, "for mortgage on the refinery, Smith street, in favor of M'r's Jane C. Place, dated 23d March, '67."		
The final balance is to his debit		$19,420 25

Merchandise account.

Shows a profit in 1866 of	$82,531 92
Shows a loss in 1867 of	57,107 33

U. S. 5-20 bonds.

19th Nov. bought $92,000 bonds, 107⅝	$99,015 00

In regards to these bonds, when the committee first met, on or about 19th Jan., the question was asked of M'r Burritt, the confidential clerk of the firm, and one of their assignees, as to what had become of these bonds, to which he replied that they were substituted for 7.30 bonds belonging to M'r's James K. Place and others, then hypothecated with L. Von Hoffman & Co., and D. S't Amant, for gold borrowed of these firms.

5th avenue property, cor. 47th street.

Amount paid out up to 31st Dec., '66, was $61,627. The acc't finally closed by a transfer on the 20th Nov., '67, to the debit of J. K. Place, $100,633.

We find the account is debited Nov. 10, '67, with $4,500 to the credit of E. L. Roberts, architect, for services rendered, for which amount he appears as a creditor of J. K. Place & Co.

Real estate 132 & 134 *Front street.*

	Amount at the debit		$120,000 00
696	Covered by mortgages to		
	M'r's E. B. Place	$78,600 00	
	J. P. Giraud, j'r, ex	41,400 00	

Sparkman, Place & King.

At debit		$31,807 50
Being cash p'd Sparkman, Place & Co., 10th Jan., '67, with interest, and in another place under the same title this firm is debited with		61,966 49

The bulk of this last item consists of cash payments since 1st Oct., '67.

Lots on 43d street.

Amount at debit 31st Dec., '66	$16,210 00	
" " 20th Nov., '67	38,857 00	

Closed by transferring $19,298.50 to the debit of real estate West 43d st., J. K. Place; and $19,298.50 to the debit of real estate West 43d st., J. D. Sparkman.

Profit and loss account, 1866.

Amount at debit			$204,067 58
Closed by a transfer, 20th Nov., 1867, to the debit of J. K. Place 3-4th		$153,050 68	
To the debit of J. D. Sparkman, 1-4th		51,016 90	

The principal items in this acc't consist of—

$19,311 67	trans. to close		insurance ac't.
16,595 92	"	"	U. S. taxes ac't.
20,353 41	"	"	storage ac't.
48,624 28	"	"	brokerage ac't.
52,641 71	"	"	expense ac't.
106,109 19	"	"	interest ac't.

$263,636 18, most of which properly belong to merchandise ac't, (and which would make merchandise ac't for 1866 show a large loss instead of the apparent profit of $82,531.92, previously referred to.)

This ac't has recently been re-opened by debiting profit and loss, 1867, with $33,912.16, and crediting J. K. Place		25,434 2
Crediting J. D. Sparkman		8,478 04

697 *Profit and loss account*, 1867.

Amount at debit		264,076 81
Which, as far as we can discover, should be reduced by the sum recently transferred, say		33,912 16
Making the loss for 1867		$230,164 65
Consisting chiefly of the following items:		
Merchandise ac't	$57,107 33	
Insurance ac't	8,526 23	
U. S. taxes ac't	8,222 76	
Storage ac't	22,080 37	
Brokerage ac't	19,810 05	
Expense ac't	52,256 76	
Interest ac't	29,128 62	
	$197,132 12	

U. S. 7.30 bonds, J. D. Sparkman.

Amount at debit 20th Nov., '67, $40,800, being cost of $40,000 bonds bought in '65; this ac't was closed by a transfer on that day to the debit of J. D. Sparkman's ac't.

Mr's Elizabeth Stevens.

There was at her credit 31st Dec., '66	$2,495 50
The ac't is closed by a cash payment, 19th Nov., '67, of	2,650 19

Manufacturers' National Bank.

There is at the credit of this ac't	25,000 00

Being a note with E. B. Place's endorsement, given 31st May, '67, payable on demand.

Daniel B. Alger.

This ac't has been closed by a cash payment, 19th Nov., '67, of	1,100 00

Lewis W. Burritt, of Stratford, Conn.

This ac't has been closed by a cash payment, 19th Nov., '67, of	3,232 50

Mr's Susan P. Perry.

This ac't has been closed by a cash payment, 19th Nov., '67, of	5,618 56

T. T. Sheffield.

Amount paid him, 19th Nov., '67, being balance loan ac't	4,500 00

698 *Charles Place.*

There is at the debit of this account..... 11,299 41
for amount advanced to Sparkman, Place & King, 1st June, for his ac't in payment of stock.

M'r's Susan A. Place, (wife of J. K. Place.)

There was at her credit 31st Dec., '66..... $5,312 50
The amount has since been increased to..... 39,039 00
The principal item in this ac't is a credit of $30,000, to the debit of M'r Jos. S. Barker, for a mortgage given on the 5th avenue property—entry dated 1st May.
The committee are of the opinion that the amount of this mortgage, say $30,000, instead of being credited to M'r's Place, should have been passed to the credit of the 5th avenue property; in this way the liabilities of the firm would be reduced $30,000.

Place & Turlay, call loans.

On 30th Nov., '65, there was at the debit of this ac't ... 45,000 00
The ac't was credited, 30th Nov., '65, with..... 50,000 00
of which $25,000 is charged to J. K. P.,
and 25,000 " to E. B. P.
The committee understand that these two last amounts are secured by mortgages on the refinery in the names of their wives.
This ac't is closed 15th May, 1867, by transferring the amount at the debit, say $225,945.45, to the debit of the Place Sugar Refinery.

Place & Turlay.

Amount at credit..... 11,297 69
Special No. 1, amount at credit..... 2,983 00
Special No. 2, amount at debit $60,000, being cash put in 30th Nov., '65, with interest 68,683 00

The Place Sugar Refinery.

The ac't was opened 15th May, 1867, by debiting it with
$225,945 45 trans. from P. & T.
67,941 53 " C. Place.

together $293,886 98
699 After crediting this ac't with $40,697.50 to the debit of merchandise, and $133,400, par value of the stock in the company, held by J. K. Place & Co.,
There is a final balance at the debit of 15,725 35
The committee understand that the different Place & Turlay accounts should be closed by transferring them to the refinery account, which balances, amounting to $54,402.31, would increase the amount at the debit of the refinery to $70,127.66; the committee understand

that there are items in dispute between the refinery accounts and those of J. K. P. & Co. which may somewhat alter the above figures.

The committee have arrived at the following conclusions:

1st. That the capital of the firm on 1st Dec., '65, was... $490,051 10

2d. That James K. Place was insolvent and a creditor to the firm before 1st Jan., '67.

3d. That the 5th avenue property legally and equitably belongs to the firm's creditors.

4th. That when the firm decided to suspend, they held securities of the value of over $90,000, which securities were at the risk of the business of the firm, and that said securities have been released and returned to the owners thereof, as the committee believe, thereby putting the property out of their hands.

Recapitulation.

Losses in 1866	$204,067 58	
" 1867	230,164 65	
		$434,232 23
Drawn out of the firm by J. K. Place:		
in 1866	$90,588 15	
in 1867	102,593 21	
*Am't of 5th ave. property	100,633 00	
His share in refinery stock	66,700 00	
		360,514 36
700 Drawn out of the firm by J. D. Sparkman:		
In 1866	$51,016 90	
In 1867	1,802 55	
$40,000 7.30 bonds	40,800 00	
His share in refinery stock	66,700 00	
		160,319 45
		$955,066 04
Add amount at debit of Gutschow & Co		53,740 62
		$1,008,806 66

The committee have to assume what loss there will be in the refinery debt after wiping out the stock to the value of $133,400.

They consider that it would be safe to assume the amount at $30,000.00.

Against this there is the mortgage on the 5th ave. property, which would offset above.

The committee understand that J. K. P. & Co.'s endorsement on the refinery paper unpaid amounts to $280,626.53.

This liability would be more than offset by the private property of M'r Sparkman.

* Should be reduced $30,000 for mortgage given Barker, erroneously credited to M'r's Place.

From the above $1,008,806.66 the committee are of the opinion there should be deducted the balance which would be at the debit of 5th avenue property after crediting the mortgage on it of $30,000, say	$70,633 00	
Also the cost of M'r Sparkman's bonds	40,800 00	
Also the capital of the firm	490,051 10	
		601,484 10
Leaving the firm short		407,322 56

The committee estimate the liabilities of the firm at $1,105,091.01.

The expense incurred by the committee for accountant's fees during the examination amounts to one hundred and twenty-five dollars.

The committee understand that a friend of M'r J. K. Place has bought from J. L. Phipps & Co. their claim.

701 The report signed by the committee conformed to the draft. It was a copy, as far as my memory serves. The paper now shown me is a copy of the letter received from M'r Place, and copied by M'r Edwards at my request. The copy is in the handwriting of M'r Edwards.

EXHIBIT No. 58.

NEW YORK, *28th Feb.*, 1868.

GENTS: In your report prepared for the creditors of J. K. Place & Co., after referring to the entry, 1st Dec., 1865, sundries to stock, $800,000, Ja's K. Place, $600,000, Ja's D. Sparkman, $200,000, you state, "This entry must have been made to give the idea that the capital of the firm was $800,000." It would be unfair to us to make such a statement to the creditors, as you will admit that such an entry could not have been made to deceive, as no one would be likely to see it except the book-keeper, and he would not be deceived, as he would be likely to know the amount of capital in the business. The proper explanation of the entry would be, that as M'r Sparkman was to furnish $200,000 and receive one-quarter of the profits, it was requisite that my account should be charged with $600,000 to make the proportion correct. M'r Sparkman knew that I was not worth $600,000, and I never professed to be worth any such amount.

The $40,000 Government bonds charged to M'r Sparkman Nov., '67, were conveyed to his wife Dec., 1865, by a legal document, and their not being charged to his account before was the fault of the bookkeeper.

In reference to E. B. Place's account, you say the final balance to his debit is $19,420.25. It would be but just to him to remark, then, that there is due to his wife ($53,518) fifty-three thousand five hundred and eighteen dollars, $41,000 of which was left with us 26th August last, for which she has no security, and that he has guaranteed more than one hundred thousand dollars more for us, in the way of endorsements, for which he has no security.

Yours, truly,
(Signed) JA'S K. PLACE.

C. M. TAYLOR, Esq.,
O. W. F. RANDOLPH, Esq.,
JOHN E. JOHNSON, Esq.,
Committee.

702 I recognize the paper now shown me as a letter in the handwriting of M'r Place, received about its date, by my firm.

EXHIBIT 59.

N. YORK, *Jan. 4th*, 1868.

DEAR SIR: I regret that I did not receive your note of 31 Dec., so as to reply that day. From the memorandum furnished by the book-keeper, it does not appear that we can pay more than 40c. on the dollar, after retaining sufficient to cover the claims made by bankers and Weston & Gray of the value of goods sold and not collected at the date of our suspension, 20 Nov. If these are not allowed, there will be about 8 p. c. more. I did not get full possession of the ledger till yesterday, and am now making a careful investigation, and hope that I may find a better state of things.

The refinery is offering 70c. on the dollar, which they are enabled to do by our stock being sacrificed; but M'r Fischer, M'r Skiddy's son-in-law, refuses to accept unless they can hold J. K. Place & Co. as indorsers, thus making the creditors of the refinery our creditors. This is very unfair, as we would then have a claim on the refinery for what we paid as indorsers, and so they would not be released. We have delayed our proposition to have the refinery get through first, so as to not make its creditors ours. Spence, Montague & Co. and C. P. Fischer & Co. are the principal obstacles in the way now, and how far M'r Skiddy sympathizes with them I cannot say. He has not acted very friendly thus far.

The refinery offers all it can pay, and we shall do the same.

We have not conveyed or concealed property to defraud our creditors. Our enemies are very industrious in circulating this charge, which is wholly unfounded.

I remain yours, truly,

JA'S K. PLACE.

While the committee was examining the books, we held a conversation with M'r Place in regard to an entry on the stock account of the firm—a conversation in regard to that—and my impression is that it occurred at the time of M'r Place's reading the report. We had
703 several interviews in his office; we had several interviews with him, and it may have occurred at some previous time. My recollection does not serve me in regard to the date. When he stated that the object of that entry was, that inasmuch as M'r Sparkman put $200,000 (or was to put $200,000) into the firm, and inasmuch as M'r Sparkman's interest in the firm was one-fourth, that that entry was made in order to keep the interest account right. I think he said that the reason that their books had not been closed the year previous was that the result of the year's business had been a loss, and it was thought desirable that some of the employees of the concern should not become aware of the fact; that M'r Burritt, who held the power of attorney of the firm, was, of course, cognizant that the result of the business had been loss; but that man who had charge of their tea department, whose name, I think, he said was M'r Alger, who had continual access to the books, that it was thought desirable to keep the fact from his knowledge.

Q. 1. Look at the papers now shown you, being the originals of Exhibits Z to CC, inclusive, attached to M'r Burritt's deposition in this cause, and state if you recognize them.

A. Yes, sir; I believe these to be the original papers handed to the creditors at the first meeting.

Q. 2. This paper, marked "Exhibit E"?

A. These papers were never marked by the committee; but I believe them to be the original papers handed to us by M'r Burritt, but I thought in addition there was a statement of the private property of M'r Sparkman, which I don't see here.

Q. 3. There was such a paper handed to you?

A. We had such a paper handed to us at the meeting.

Q. 4. Will you state how M'r Burritt came to hand you that?

A. You ask me how I came in possession. Part of these documents are the papers that he was employed by us—the entries he was employed by us to have made up.

Cross-examined:

Q. 5. If the ledger of a mercantile firm contained the private
704 account of one of the members of the firm relating to his individual property, and to pay for which no part of the money of the firm had been used, would the balance or additions of those private accounts be included in a trial-balance if the trial-balance should be made or taken off?

A. Every account in the ledger would appear in the trial-balance. But I do not understand how there could be an account upon the firm ledger of a private investment of a member of the firm in which the firm money had not been used.

Redirect examination:

The original report of the committee was in my handwriting, made from a draft which was referred to in my previous examination, and now shown me as Exhibit 45. That original report was signed by M'r Johnson, M'r Randolph, and myself. There were copies made in my office, and also in the office of Mess'r's Brown Brothers & Company: how many I can't speak positively of. They were made in copying ink, and press copies made from such copies in order to save labor, which were distributed among creditors at the meeting held, I think it was in February, 1868. The one that was shown to M'r Place was the original read by him after being signed by the committee. I recognize this Exhibit No. 57 as a copy of the original report. It was made in the office of Mess'rs Brown Brothers & Company. I have compared it with the draft marked "Exhibit 45," in which there is no difference, except that the following paragraphs are omitted: "In view of the foregoing statement, and the large sums of money drawn out of the firm during the years 1866 and 1867, the committee are of opinion that the firm of James K. Place & Company should pay not less than fifty cents on the dollar;" which was added to the copy of my draft, which was the original copy. In copying the report I find I made a mistake of $30, and in the engrossed copy it was put down correctly; that is on page 2 of the draft, and is referred to subsequently again.

705 Q. 6. Will you state the next point in which the original varied from the draft?

A. I was speaking from memory in regard to that. There are several. On the first page I find that instead of "it," the word "account" is made use of. The difference previously referred to is the second. I discover in page 4 of the draft the words are used, "less profits credited his account," which was altered when copied to "less error in crediting account." On page 7 of the draft I find "storage account" put

down as "$20,353.41" in the draft, which in the report is put down as "$20,533.41"—a transposition of figures. On page 8 of the draft, under the head of "profit and loss account, 1866," are the following words: "This account has recently been re-opened by debiting profit and loss account, 1867, with $33,912.16," whereas in copying it it is written, "This account has recently been re-opened by crediting it to the debit of profit and loss account, 1867, with $33,912.16." On the same page, under the heading of "profit and loss account, 1867," "U. S. taxes account, $8,222.76," in the draft, is copied in the report "$8,822.76." On page 10 of the draft, under the head of Place Sugar Refinery, appears "$225,945.45, transferred from Place & Turlay," while in the report is the same thing, with the exception that it is called "Place & Turlay call loans." On the same page of the draft it is stated, "The committee understand that the different Place & Turlay accounts should be closed by transferring them to the refinery account, which balances, amounting to $54,402.31, would increase the amount to the debit of the refinery to $70,127.66," whereas in the copy it reads this way: "The committee understand that the different Place & Turlay accounts should be closed by transferring them to this, account, which would increase the balance to the debit of the refinery to $70,127.66." On page 11 of the draft is the following: "That the capital of the firm on first December, 1866, was $490,051.10," while in the original
706 report the figures are put down as "$490,021.10;" also in the draft, that "James K. Place was insolvent, and a creditor to the firm before first of January, 1867," while in the copy is written, that "James K. Place was insolvent, and a debtor to the firm, before first January, 1867;" in the original draft, on page 11, it is written, "Drawn out of the firm by James K. Place, in 1866, $90,588.15;" in the original report the following words are added: "Including interest, $29,560.15;" on the same page of the draft, No. 11, is, "drawn out of the firm by J. K. Place in 1867, $102,593.21," while in the copy is added, "including interest, $38,943.34; on the same page of the draft is, "amount of Fifth avenue property, $100,633," while in the copy of the report it is written, "cost of Fifth avenue property;" on page 12 of the draft is the following: "Add amount to debit of Gutschow & Co., and E. Gutschow & Co., $53,740.62," which in the original report reads as follows: "Amounts at debit of Gutschow & Co., and E. Gutschow & Co., being reclamation on these firms in China and Japan;" on the same page of the draft is written, "The committee have to assume what loss there will be in the refinery debt, after wiping out the stock to the value of $133,400," while in the copy it reads, "The committee have to assume what loss there would be on the refinery debt of $70,127.66, after wiping out the stock, $133,400, as worthless;" on the same page of the draft appears, "This liability would be more than offset by the private property of M'r Sparkman," which in copying was written, "This liability the committee think would be offset by M'r Sparkman's private property;" on the same page of the draft it states, "leaving the firm short $407,322,56," which in copying was written, "which would make the firm short $407,352.56;" but previously in the draft appears this: "Also the capital of the firm, $490,051.10," which in copying was written; "Also the capital of the firm, $490,021.10;" there is also an-
707 other sentence included in the report, which was added when drawing it up, which does not appear in the draft; it is the following: "If the remaining $52,000 7.30 bonds taken up 19th November were still at the risk of the business, the above amount would be reduced accordingly." On the same page of the draft appears, "The committee

understand that a friend of M'r J. K. Place has bought from J. L. Phipps & Co. their claim;" which in copying was written, "They understand from M'r Place that a friend of his has bought from J. L. Phipps & Co. their claim on the firm."

Q. 6. From memory, what do you say to Exhibit 57 being or not being a copy of the report, as signed by the committee?

A. I believe it to be a fac simile of the original copy submitted to the creditors in February, 1868.

CORTLANDT M. TAYLOR.

Subscribed and sworn to me before me this 26th January, 1870.

R. E. STILWELL,
Special Examiner, etc.

EXHIBIT No. 60.

U. S. district court.

JOHN SEDGWICK, AS ASSIGNEE, &C.,
ag'st
JAMES K. PLACE AND AL.

The attorneys and counsel for the defendants admit with the same force and effect as if a witness had been called and sworn thereto, and not otherwise, that the original report, of which Exhibit 57 is tes-
708 tified as being a copy, and the original letter of James K. Place, dated February 28th, 1868, of which Exhibit 46 is testified as being a copy, were produced and used in evidence before Justice Ledwith in legal proceedings before him, and left with him, and although diligent search has been made for the same amongst the papers of Justice Ledwith, and in all places in which said papers may have gone from his possession, the said original papers can neither of them be found.

But the defendants object to the introduction of Exhibits Nos. 57 and 46, and each of them, on the grounds that they are irrelevant, immaterial, and inadmissible.

Dated May 25th, 1870.

MARSH & WALLIS,
Atty's for Def'ts Burritt & Sheffield.
J. K. HAYWARD,
Sol'r for Ex'r of S. A. P. and Bankrupts.
WILSON & WALLIS,
Sol'rs. &c., for Barker, and
E. DELAFIELD SMITH,
Sol'r for Cullen.

G. B. Edwards, sworn as a witness for plaintiff, testifies and says as follows:

I recognize this paper now shown me, marked "Exhibit 46," being the paper produced and identified by C. M. Taylor. It is in my handwriting. I copied it from a letter from James K. Place & Co. I received that letter from which I made this copy from M'r Taylor—Cortlandt M. Taylor.

Cross-examination:

I know the handwriting of M'r Place. I have not seen him write, but I have seen his letters often. I was in the employ of Henry Eyre, and am now; he dealt frequently with J. K. Place & Co., and in the

course of such dealings I obtained my acquaintance with M'r Place's handwriting; the original of this letter, in my opinion, was in M'r James K. Place's handwriting, his own handwriting. Exhibit 47, now shown to me, is in M'r James K. Place's handwriting.

G. B. EDWARDS.

Subscribed and sworn to before me this 25th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

709 Benjamin A. Whittaker, sworn for plaintiff, deposes and says: I am a stock-broker, of the firm of Whittaker & Ely, and was employed by Brown Brothers & Co., in February, 1868, as one of their book-keepers. The paper now shown me, marked "Exhibit 57, May 5th, 1869," I recognize; it is a copy made by me from a document handed to me by M'r John E. Johnson, confidential clerk in Brown Brothers' office; I don't know what became of the original; I returned it to M'r Johnson with the copy. There were three signatures, I think, to the original; I cannot say with positiveness, certainly, that I recognized any one of the signatures; my impression is that M'r Johnson's signature was in his handwriting; I believe this copy, Exhibit 57, to be an exact copy of the original.

BENJ'N A. WHITAKER.

Subscribed and sworn to before me this 19th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

John E. Johnson, sworn for plaintiff, testifies and says as follows: I was employed in February, 1868, by Brown Brothers & Co., as their representative, and held their power of attorney. I acted upon the committee of creditors of J. K. Place & Co. My associates on the committee were M'r O. W. F. Randolph and M'r C. M. Taylor. There was a written report made by the committee. The report was signed by M'r Taylor, M'r Randolph, and myself. There were several copies of the report made in Brown Brothers & Company's office. They were made from the original report.

I recognize Exhibit 57 now shown me as in the handwriting of
710 M'r Whittaker, who was one of the book-keepers in our office. This copy was made under my directions, and was made from the original copy.

JOHN E. JOHNSON.

Subscribed and sworn to before me this 19th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

William H. Caswell, sworn and examined as a witness for plaintiff, testifies and says:

My firm is John Caswell & Co.; we are importers of China merchandize, at 87 Front street, New York. In the summer of 1867 our firm transacted business with the firm of James K. Place & Co. We made advances to them on merchandize. On the 4th day of November, 1867, we made them an advance of $75,000 in our negotiable notes on sundry tea and coffee. The tea and coffee came from Mess'rs J. K. Place & Co. The tea was of various cargoes and various marks; the coffee was imported ex Acme. It was delivered to us by storage receipts in our

name, with a letter of consignment. We finally accounted for the proceeds of that transaction to George G. Haven, receiver.

Cross-examination:

We often lend on merchandize in that way; it is customary to do such a thing. It is a common practice in New York by some merchants; some of the larger merchants do it; they both lend money and borrow money. Some have to borrow, and some have the money to lend.

WILLIAM H. CASWELL.

Subscribed and sworn to before me this 24th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

711 EXHIBIT No. 61.

REPORT OF COMMITTEE.

The undersigned, a committee appointed 17th January by the creditors of James K. Place & Co., "to investigate their affairs and confer with them, and report the result of their labors at the next meeting of the creditors," have now to report that, at the first meetings which were held, efforts were made to arrive at some approximate idea as to the true condition of said affairs, but it was found that the books had not been written up since the firm suspended, and that access to some of them was refused, owing to certain legal proceedings instituted against the firm by one or more of their creditors. The ledgers, however, being exhibited, the committee proceeded to examine them, hoping to familiarize themselves with the accounts, when, on opening at profit and loss account, it was noticed that the account had not been closed since 1st December, 1865, the period when M'r E. B. Place retired from the firm, and M'r J. D. Sparkman was admitted as a general partner. The reason given to the committee why the books were not closed 31st December, 1866, was that the business of the year resulted in loss, which it was deemed advisable not to be allowed to transpire.

On the 25th January it was decided that M'r Burritt should make out on sheets of paper such entries as would be necessary to close the books, posting the entries in pencil into the ledgers.

On the 8th February the committee were informed that these entries were prepared, and a meeting appointed for 10th idem. At this and subsequent meeting the following facts were elicited:

On the 1st December, 1865, appears the following entry:

Sundries D'r to stock		$800,000 00
James K. Place	$600,000 00	
J. D. Sparkman	$200,000 00	

This entry must have been made to give the idea that the capital of the firm was $800,000, which was not the case, as on the 1st December, 1865, there was at the credit of James K. Place $227,301.62, and J. D Sparkman $262,719.48, making the capital of the firm only $490,021.10.

James K. Place's account.

	On the 1st December, 1865, there was at his credit.	$227,301 62
712	On the same day his account is debited with his three fourths of stock	600,000 00
On 31st Dec., 1866, there was at his debit		457,554 33

Showing the amount really at his credit to be $142,445.47, and shewing that during the year 1866 he had drawn out of the firm (including $29,560.15 interest) the sum of...		84,856 15
Amount at his credit 31st December, 1866, brought down.		142,445 47
The books not having been properly balanced on 31st December, 1866, no entries shewing the result of the business for that year were made until 20th November, 1867, when James K. Place's account is debited with his three-fourths amount of said loss, say.....		153,050 68
(Subsequently M'r J. K. Place directed an entry to be made which would reduce his share of losses in 1866 $25,434.12, they being principally profits on coffee per Dunmore, and teas per Lota, but as these vessels severally arrived on or about the 1st and 5th February, 1867, the committee do not see how these profits properly belong to the year 1866.) J. K. P.'s account to the debit, 31st December, 1866.....		10,605 21
Amount at debit of his loan account, 31st December, 1866		5,732 00
Amount paid out on 5th avenue property up to December 31st, 1866.....		61,627 00
Increasing the amount at his debit, 31st December, 1866, to.....		77,964 21
No allowance is made for the amount at the debit of Place and Turlay, 31st December, 1866, who, we have every reason to believe, were then insolvent.		
The balance at his debit on the books 31st December, 1867, is.....		760,897 35
713 Less to be passed to his credit from the debit of stock.....		600,000 00
Actual amount of debt.....		160,897 35
Arising in this way:		
Drawn out of the firm in 1867, (including $38,900.43 int.)..		75,093 26
Cost of 5th avenue property.....		100,633 00
Of which in 1866.....	61,627	
" 1867.....	39,006	
At his debit 31st December, 1866.....		10,605 21
		$186,331 47
Less error in crediting his account in 1866 with profits which belong to 1867.....		25,434 12
		160,897 35
To which add the amount at the debit of his "loan account".....		33,231 95
Of which drawn in 1866.....	5,732 00	
" " 1867.....	27,490 95	
To which add his share of the losses for 1867, bal. of debit of P. and L. account, 1867.....	264,076 81	

His three fourths of above is	198,057 61
At debit of James K. Place, 31st Dec., 1867	392,186 91

Since the firm stopped he has drawn out about $3,000.

J. D. Sparkman's account.

There was at his credit 1st December, 1865	262,719 48
" " " 31st " 1866	210,305 55
Shewing that he drew out in 1866	52,413 93
His share of the losses for 1866 was	51,016 90

This account is debited under date 20th November, 1867, with $40,800, being cost of $40,000 $7\frac{3}{10}$ bonds, which appear to have been bought in 1865, and to have been on hand in November, 1867.

	Including above $40,800, he drew out in 1867		$42,602 55
714	His share of the losses for 1867 was	$66,019 20	
	Less passed to his acc. as profits in 1866, which belongs to 1867	8,478 04	57,541 16
			$151,160 61
	Which would leave at his credit 31 Dec., 1867		59,144 94

Since the firm stopped he has drawn out about $5,000.

E. B. Place's acc't.

There was at his credit 1 Dec., 1865			$168,529 96
The largest amount to his credit appears to have been in Nov., 1865, say			306,946 74
For which he received payment in 7.30 bonds	$34,816 78		
Mortgage on store	78,600 00		
Do. sugar-house	25,000 00	Nov., '65	
Do. Do.	50,000 00	May, '67	
On the 1st July, 1866, the am't at his credit is reduced to			107,430 60
On 1 Jan'y, 1867, " "			78,053 88
In August, 1867, his acc. is debited to credit of the Place Sugar Refinery with $50,000 for mortgage on the refinery, South s't, in favor of M'r's Jane C. Place, dated 23 March, 1867. The final balance is to his debit, say			19,420 25

Merchandise acc't.

Shows a profit in 1866 of	$82,531 92
" loss is 1867 of	57,107 33

U. S. 5-20 bonds.

19 Nov., 1867, bought $92,000 bonds @ $107\frac{5}{8}$	$990 15

In regard to these bonds, when the committee first met, on or about 19 Jan'y, the question was asked of M'r Burritt, the confidential clerk of the firm and one of their assignees, as to what had become of these bonds, to which he replied that they were substituted for 7.30 bonds (belonging to M'r's James K. Place and others) then hypothecated with

715 Mess'rs L. Von Hoffman & Co. and D. S't Amant, for gold borrowed of these firms.

5th avenue property, cor. 47th street.

Am't paid out up to 31 Dec., 1866, was..... $61,627 00

The account is finally closed by a transfer on the 20th Nov., 1867, to the debit of Ja's K. Place, of $100,633. We find this ac. is debited Nov. 19, 1867, with $4,500 to the credit of E. L. Roberts, architect, for services rendered, for which amount he appears as creditor of J. K. Place & Co.

Real estate 132 *and* 134 *Front street.*

Amount at the debit	$120,000	
Covered by mortgage to M'r's E. B. Place.....		$78,600 00
" J. P. Giraud, j'r, ex.....		41,400 00

Sparkman, Place & King.

At debit	$31,807 50
Being cash paid by Sparkman, Place & Co. 10 Jan'y, '67, with interest; and in another place, under the same title, this firm is debited with.....	61,966 49

The bulk of this last item consists of cash payments since 1st Oct., 1867.

Lots on 43d street.

Am't at debit, 31 Dec., 1866.....	$16,210
" " 20 Nov., 1867.....	38,857

Closed by transferring—
$19,298 50 to the debit of real estate West 43d street, J. K. Place.
19,298 50 Do., J. D. Sparkman.

Profit and loss acc't.

Amount at debit.....		$204,067 58
Closed by transfer, 20 Nov., 1867,		
To the debit of J. K. Place, $\frac{3}{4}$*ths*.....	$153,050 68	
" " J. D. Sparkman, $\frac{1}{4}$*th*.....	51,016 90	

The principal items in this acc. consist of—

716

$19,311 67	transf'd	to close	ins. ac.
16,595 93	"	"	U. S. taxes ac.
20,533 41	"	"	storage ac.
48,624 28	"	"	brokerage ac.
52,641 71	"	"	expense ac.
106,109 19	"	"	interest ac.
$263,636 18	most of which properly belongs to merch'd'ze		

ac., and which would make merchandize ac. for 1866 show a large loss, instead of the apparent profit of $82,531.92 previously referred to. This account has been recently been re-opened by crediting it to the debit of profit and loss ac., 1867, with $33,912 06

And crediting J. K. Place $25,434 12
" J. D. Sparkman 8,478 04

Profit and loss acc.—1867.

Amount at debit $264,076 81
Which, as far as we can discover, should be reduced by the sums recently transferred, say 33,912 16

Making the loss for 1867 ..... $230,164 65

Consisting chiefly of the following items:

Merchandize ac	$57,107 33	
Insurance ac	8,526 23	
U. S. taxes	8,322 76	
Storage ac	22,080 37	
Expense ac	52,256 76	
Interest ac	29,128 62	
Brokerage ac	19,810 05	
		$197,132 12

U. S. 7-30 bonds.—J. D. Sparkman.

Amount at debit 20 Nov., '67, $40,800, being cost of $40,000 bonds bought in 1865. This ac. was closed by a transfer on that day to the debit of J. D. Sparkman's ac.

M'r's Elizabeth Stevens.

There was at her credit 31 Dec., 1866 ..... $2,495 50
This ac. is closed by a cash payment 19 November, '67 .... 2,650 19

717 *Manufacturers' National Bank.*

There is at the credit of this account, being a note with E. B. Place's endorsement, given 31st May, 1867, payable on demand $25,000 00

Daniel B. Alger.

This account has been closed by a cash payment, 19th November, 1867, of $1,100 00

Lewis W. Burritt, of Stratford, Conn.

This account has been closed by a cash payment, 19th November, 1867, of $3,232 50

M'r's Susan P. Perry.

This account has been closed by a cash payment, 19th November, 1867, of $5,618 56

T. T. Sheffield.

Cash paid him 19th November, 1867, being balance loan account $4,500

Charles Place.

There is at the debit of this account "for amount advanced to Sparkman, Place & King, 1st June, for his account in payment of stock" $11,299 41

M'r's Susan A. Place (wife of James K. Place.)

There was at her credit 31st Dec., '66..... $5,312 50
This has since been increased to..... 39,039 00

The principal item in this account is a credit of $30,000 to the debit of Joseph S. Barker for a mortgage given him on the Fifth avenue property. Entry dated 1st May.

The committee are of opinion that the amount of this mortgage, say $30,000, instead of being credited to M'r's Place should have been placed to the credit of the Fifth-avenue property. In this way the liabilities of the firm would be reduced $30,000.

Place & Turlay call loans.

On 30th November, '65, there was at the debit of this account $45,000 00
This account is credited, 30th November, '65, with. 50,000 00
718 Of which $25,000 is charged to J. K. Place, and $25,000 is charged to E. B. Place.

The committee understand that these two last amounts are secured by mortgage on the refinery, in the names of their wives.

This account is closed 15th May, 1867, by transferring the amount at the debit, say $225,945.45, to the debit of the Place Sugar Refinery.

Place & Turlay.

Amount at credit $11,297 69

Place & Turlay, Special No. 1.

Amount at credit $2,983 00

Place & Turlay, Special No. 2.

Amount at debit..... $68,683 00

Being $60,000 cash put in 30th November, 1865, with interest.

The Place Sugar Refinery.

This account was opened 15th May, 1867, by debiting
$225,945 45 transferred from Place & Turlay, call loans, and
67,941 53 transferred from Charles Place—

Together, $233,886 98

After crediting this account with $40,697.50 to the debit of merchandise account, and $133,400 par value of stock in the company held by J. K. Place & Co., there is a final balance at the debit of $15,725.35.

The committee understand that the different Place & Turlay accounts should be closed by transferring them to this account, which would increase the balance at the debit of the refinery to $70,127.66.

The committee understand there are items in dispute between the refinery accounts and those of James K. Place & Co., which may somewhat alter the above figures.

The committee have arrived at the following conclusions:

First. That the capital of the firm on 1st December, 1865, was $490,021.10.

Second. That James K. Place was insolvent and a debtor to the firm before 1st January, 1867.

Third. That the Fifth avenue property, legally and equitably, belongs to the firm's creditors.

719 Fourth. That when the firm decided to suspend, they held securities of the value of over $90,000, which securities were at the risk of the business of the firm, and that said securities have been released and returned to the owners thereof, as the committee believe, thereby putting the property out of their hands.

RECAPITULATION.

Losses in 1866	$204,067 58	
" 1867	230,164 65	
		$434,232 23
Drawn out of the firm by James K. Place, including interest, $29,560.15, in 1866	$90,588 15	
Drawn out of the firm by James K. Place, including interest, $38,900.43, in 1867	102,593 21	
Cost of Fifth avenue property (should be reduced $30,000.00 for mortgage given M'r Barker, erroneously credited to M'r's Place)	100,633 00	
Refinery stock	66,700 00	
		360,514 36
		$794,746 59
Drawn out of the firm by J. D. Sparkman—		
In 1866	$51,016 90	
In 1867	1,802 55	
$40,000 $7\frac{3}{10}$ bonds	40,800 00	
Refinery stock	66,700 00	
		160,319 45
Amounts at debit of Gutschow & Co., and C. Gutschow & Co., being reclamation on these firms in China and Japan		53,740 62
		$1,008,806 66

The committee have to assume what loss there would be on the refinery debt of $70,127.66, after wiping out the stock of $133,400 as worthless. They consider it would be safe to assume it at

720 $30,000. Against this there is the mortgage on the Fifth avenue property of $30,000, which would offset above loss.

The committee understand that J. K. Place & Co.'s endorsements on the refinery paper unpaid amounts to $280,626.53.

This liability, the committee think, would be offset by Mr. Sparkman's private property.

From the above $1,008,806.66 the committee are of opinion there should be deducted the balance which would be at the debit of Fifth avenue property, after crediting it with the

mortgage for $30,000, say	$70,633 00	
Also the cost of Mr. Sparkman's bonds	40,800 00	
Also the capital of the firm	490,021 10	$601,454 10
Which would make the firm short		$407,352 56

If the remaining $52,000 $7\frac{3}{10}$ bonds, taken up Nov. 19, were still at the risk of the business, the above amount would be reduced accordingly.

The committee estimate the firm's liabilities at $1,105,091.10.

They understand from Mr. Place that a friend of his has bought from J. L. Phipps & Co. their claim on the firm.

The expenses incurred by the committee for accountant's fees during the examination amount to $125.

In view of the foregoing statement, and the large sums of money drawn out of the firm during the years 1866 and 1867, the committee are of the opinion that the estate of James K. Place & Co. should pay not less than fifty cents on the dollar.

New York, 26th February, 1868.

(Signed) O. W. F. RANDOLPH,
JOHN E. JOHNSON,
CORTLANDT M. TAYLOR,
Committee.

721 EXHIBIT 62.

Abstract of deeds.

U. S. district court.

JOHN SEDGWICK, AS ASSIGNEE, &C.,
vs.
JAMES K. PLACE & AL.

It is stipulated and agreed that the annexed paper is a correct abstract of certain deeds and conveyances therein referred to, and that such abstract may be read in evidence in the same manner and with the like effect as the several original deeds referred to in said abstract, proof of the execution of such deeds and conveyances being waived.

Dated January 20th, 1870.

MARSH & WALLIS,
Att'ys for Burritt & Sheffield.
FOSTER & THOMSON,
Att'ys for Phipps, &c.
E. DELAFIELD SMITH,
Att'y for Cullen.
J. N. PLATT,
Att'y for Sparkman, J. D.
J. K. HAYWARD,
Att'y for Executors.
WILSON & WALLIS,
Att'ys for Def't Barker, &c.

FRONT STREET PROPERTY.

JOSEPH P. GIRAUD, J'R, HUGH AIKMAN, AND Alexander H. Grant, executors, &c., of Joseph Giraud, deceased,
to
JAMES K. PLACE & EPHRAIM B. PLACE.

Deed dated February 1st, 1864; recorded in the register's office
722 of the city and county of New York, in liber 892 of conveyances, page 430, March 1st, 1864; consideration of $55,200$\frac{00}{100}$. Conveys the premises on the southwest corner of Front and Pine streets, in the city of New York, containing about forty feet and eleven inches in width, on Front street and throughout, and about eighty-six feet and four inches in depth on Pine street and throughout.

JAMES K. PLACE AND EPHRAIM B. PLACE
to
JOSEPH P. GIRAUD, J'R, HUGH AIKMAN, AND Alexander H. Grant, executors, &c., of Joseph Giraud, deceased.

Mortgage dated February 1st, 1864; recorded in the said register's office, in liber 706 of mortgages, page 303, March 1st, 1864.

Recites the bonds of the mortgagors, conditioned to pay the sum of forty-one thousand four hundred dollars the first day of February, 1874, with interest at the rate of six per cent. per annum, payable semi-annually, and mortgages the same premises conveyed by the next preceding deed to secure the payment of the said bonds.

EPHRAIM B. PLACE AND JANE C., HIS WIFE,
to
JAMES K. PLACE.

Deed dated the first day of December, one thousand eight hundred and sixty-five; recorded in said register's office, in liber 955 of conveyances, page 207, December 9, 1865; consideration, $60,000.

Conveys the same premises conveyed by the next preceding deed.

723 JAMES K. PLACE AND SUSAN A. PLACE
to
EPHRAIM B. PLACE.

Mortgage dated the first day of December, 1865; recorded in the said register's office, in liber 752 of mortgages, page 227, the 9th day of December, 1865. Recites the bond of the said James K. Place to the said Ephraim B. Place, bearing even date with the said mortgage, conditioned for the payment of seventy-eight thousand and six hundred dollars on the first day of December, 1875, with interest thereon at the rate of seven per cent. per annum, and mortgages the same premises conveyed by the next preceding deed to secure the payment of the said bond.

EPHRAIM B. PLACE
to
JAMES K. PLACE.

Satisfaction-piece of the above mortgage, bearing date the 3d day of June, in the year 1867; recorded in said register's office, in liber 65 of discharges of mortgages, page 257, the 11th day of June, 1867.

JAMES K. PLACE AND SUSAN A., HIS WIFE,
to
JANE C. PLACE.

Mortgage bearing date the first day of June, 1867; recorded in the said register's office, in liber 807 of mortgages, page 580, June 11, 1867. Recites the bond of the said James K. Place to the said Jane C. Place, conditioned for the payment of the sum of seventy-eight thousand six hundred dollars on the first day of June, 1875, with interest at the rate of seven per cent. per annum, payable semi-annually, and mort-
724 gages the same premises as are conveyed by the said first-mentioned deed to secure the payment of said bond.

JAMES K. PLACE
to
HAMILTON WALLIS.

Deed dated November 1st, 1867; acknowledged November 11, 1867; recorded in said register's office, in liber 1037 of conveyances, page 110, November 12, 1867. Consideration, $1,000. Conveys the same premises as were conveyed by the said first-mentioned deed.

HAMILTON WALLIS
to
SUSAN A. PLACE.

Deed dated November 11, 1867; acknowledged Nov. 11, 1867; recorded in said register's office, in liber 1037 of conveyances, page 106, November 12, 1867. Consideration, $1,000. Conveys the same premises as the said first-mentioned deed.

SUSAN A. PLACE, WIFE OF JAMES K. PLACE,
and James K. Place,
to
HAMILTON WALLIS.

Deed dated November 19th, 1867; acknowledged November 20th, 1867; recorded in said register's office, in liber 1034 of conveyances, page 656, February 19, 1868. Consideration, $1,000. Conveys the same premises as the said first-mentioned deed.

725 HAMILTON WALLIS
to
JAMES K. PLACE.

Deed dated November 20th, 1867; acknowledged November 20, 1867; recorded in said register's office, in liber 1034 of conveyances, page 658, February 19, 1868. Consideration, $1,000. Conveys the same premises as the first-mentioned deed.

Supreme court State of New York.

JANE C. PLACE, PLAINTIFF,
against
JAMES K. PLACE, SUSAN A. PLACE, HIS WIFE, Lewis W. Burritt, jun., and Thomas T. Sheffield, as assignees of James K. Place, defendants.

Judgment-roll in the above-entitled action filed the 14th day of March, 1868.

By the complaint forming part of said judgment-roll, filed the 18th day of February, 1868, it appears that the action is for the foreclosure of the above-mentioned mortgage from James K. Place to Jane C. Place, for $78,600, by reason of the non-payment of interest falling due on the 1st of December, 1867, and its continued non-payment for more than thirty days thereafter, and the election of the plaintiff, for the reason of non-payment of interest, that the whole principal should become due and payable.

The judgment dated the 14th day of March, 1868, whereby it was adjudged that eighty-two thousand nine hundred and fifty-five dollars and seventy-five cents is due upon said bond and mortgage for prin-
726 cipal and interest, and that the said mortgaged premises shall be sold and conveyed by Daniel P. Ingraham, j'r, constituted referee for that purpose, and that all parties to the action, and all parties claiming under them, shall be barred and foreclosed.

DANIEL P. INGRAHAM, J'R, REFEREE,
to
ARTHUR T. SULLIVAN.

Deed dated the 2d day of May, 1868; recorded in said register's office, in liber 1062 of conveyances, page 566, the 6th day of August, 1868. Consideration, $70,000. Recites said judgment of foreclosure and sale, and an advertisement and sale at public auction in pursuance of such judgment; that the said grantee was the highest bidder at said sale, and purchased the mortgaged premises; and it conveys the said mortgaged premises to him, being the premises on the corner of Front and Pine streets conveyed by the said first-mentioned deed.

FIFTH AVENUE PROPERTY.

THE TRUSTEES OF COLUMBIA COLLEGE OF THE City of New York
to
FRANCIS B. WALLACE.

Lease dated February 1, 1864; recorded in the register's office of the city and county of New York, in liber 929 of conveyances, page 611, September 19th, 1865.

Grants and demises for the term of twenty-one years from February 1st, 1864, at an annual rent of $550, a certain lot of land situated on the northwesterly corner of the Fifth avenue and Forty-seventh street, in the city of New York, and containing twenty-five feet in width in front on said avenue and in the rear, and one hundred feet in depth on said street and on the northerly side thereof.

FRANCIS B. WALLACE
to
JAMES K. PLACE.

Assignment of above-mentioned lease, dated June 21, 1865, and recorded in said register's office, in liber 929 of conveyances, page 618, September 19th, 1865.

727 JAMES K. PLACE
to
ALEXANDER H. WALLIS.

Assignment of above-mentioned lease, dated November 30th, 1865;

recorded in said register's office, in liber 973 of conveyances, page 208, April 18th, 1866; acknowledged April 18, 1866.

ALEXANDER H. WALLIS
to
SUSAN A. PLACE.

Assignment of above-mentioned lease, dated December 1, 1865, recorded in said register's office, in liber 973 of conveyances, page 211, April 18, 1866; acknowledged April 18, 1866.

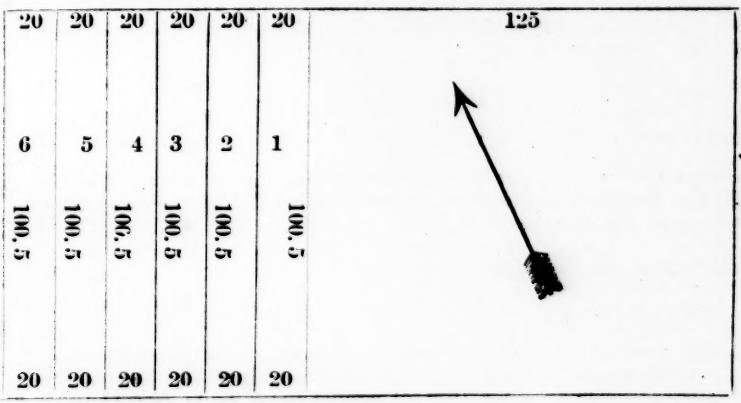
SUSAN A. PLACE AND JAMES K. PLACE
to
JOSEPH S. BARKER.

Mortgage dated May 1st, 1867, and recorded in said register's office, in liber 806 of mortgages, page 600, June 11th, 1867.

Recites the bond of the said Susan A. Place and James K. Place, dated May 1st, 1867, in the penal sum of $60,000, and conditioned to pay the sum of $30,000 on the first day of May, 1872, with interest at the rate of seven per cent. per annum, payable semi-annually; and if default shall be made in the payment of interest at any time for thirty days after it becomes due, the whole principal, with all arrearages of interest, to be due and payable at once; and mortgages the said lease and leasehold promises to secure said bond, and contains an agreement to insure the buildings upon the leasehold promises for $30,000, and to assign the policy to the mortgagee as further security.

FORTY-THIRD STREET PROPERTY.

43rd street.



728 ROBERT J. LIVINGSTON AND LOUISA M., his wife,
to
JAMES K. PLACE.

Lease dated March 20th, 1865; recorded in the register's office of the city and county of New York, in liber 935 of conveyances, page 547, September 14, 1865.

Grants and demises the lot of land represented on the above diagram as No. 1, for the term of twenty-one years from May 1, 1865, at an annual rent of $300.

ROBERT J. LIVINGSTON AND LOUISA M., HIS wife,
to
JAMES K. PLACE.

Lease dated March 20th, 1865; recorded in the said register's office, in liber 935 of conveyances, page 552, September 14, 1865.

Grants and demises the lot of land represented on the above diagram as No. 2, for the term of twenty-one years from May 1, 1865, at an annual rent of $300.

ROBERT J. LIVINGSTON AND LOUISA M., HIS wife,
to
JAMES D. SPARKMAN.

Lease dated March 20, 1865; recorded in the said register's office, in liber 935 of conveyances, page 537, September 14, 1865.

Grants and demises the lot of land represented on the above diagram as No. 3, for the term of twenty-one years from May 1, 1865, at an annual rent of $300.

JAMES D. SPARKMAN
to
JAMES K. PLACE.

Assignment of the last above-mentioned lease, dated October 25th, 1866; recorded in the said register's office, in liber 990 of conveyances, page 391, November 2, 1866.

JAMES K. PLACE
to
ALEXANDER H. WALLIS.

Assignment of the three above-mentioned leases, dated August 1, 1867, and recorded in the said register's office, in liber 1022 of conveyances, page 381, August 20th, 1867.

ALEXANDER H. WALLIS
to
SUSAN A. PLACE.

Assignment of the three above-mentioned leases, dated August 24th, 1867, acknowledged August 24, 1867; recorded in the said reg-
729 ister's office, in liber 1024 of conveyances, page 522, October 1, 1867.

ROBERT J. LIVINGSTON AND LOUISA M., HIS wife,
to
JAMES D. SPARKMAN.

Lease dated March 20, 1865; recorded in the said register's office, in

liber 935 of conveyances, page , September 14, 1865. Grants and demises the lot of land represented on the above diagram as number 4, for the term of 21 years from March 1, 1865, at an annual rent of $300.

ROBERT J. LIVINGSTON AND LOUISA M., HIS wife,
to
EPHRAIM B. PLACE.

Lease dated March 20, 1865; recorded in said register's office, in liber 935 of conveyances, page 557, September 14, 1865. Grants and demises the lot of land represented on the above diagram as number 5, for the term of 21 years from March 1, 1865, at an annual rent of $300.

EPHRAIM B. PLACE
to
JAMES D. SPARKMAN.

Assignment of the above lease dated March 14, 1866; recorded in said register's office, in liber 973 of conveyances, page 210, April 18, 1866.

ROBERT J. LIVINGSTON AND LOUISA M., HIS wife,
to
EPHRAIM B. PLACE.

Lease dated March 20, 1865; recorded in said register's office, in liber 935 of conveyances, page 562, September 14, 1865.

Grants and demises the lot of land represented on the above diagram as number 6, for the term of 21 years from March 1, 1865, at an annual rent of $300.

EPHRAIM B. PLACE
to
JAMES D. SPARKMAN.

Assignment of the last above-mentioned lease, dated March 14, 1866; recorded in the said register's office, in liber 973 of conveyances, page 309, April 18th, 1866.

730 PLACE SUGAR REFINERY PROPERTY.

JAMES M. WATERBURY
to
JAMES K. PLACE, EPHRAIM B. PLACE, Charles Place, and Thomas M. Turlay.

Deed dated Sep. 7th, 1865; recorded in the register's office of the city and county of New York, in liber 941 of conveyances, page 459, September 29th, 1865; consideration $40,000.

Conveys the parcel of land running through from South to Front streets, between Gouverneur and Jackson streets, in the city of New York, containing seventy feet in width and 140 feet in depth.

JAMES K. PLACE AND WIFE, EPHRAIM B. Place and wife, Cha's Place and wife, and Thomas M. Turlay and wife,
to
FREDERICK A. COE.

Mortgage dated Nov. 30, 1865; recorded in the said register's office, in liber 752 of mortgages, page 220, December 9, 1865. Recites the bond of James K. Place, Ephraim B. Place, Charles Place, and Thomas M. Turlay, of the same date as the said mortgage, conditioned to pay $25,000 November 30, 1870, with interest at the rate of seven per cent. per annum, payable semi-annually, and mortgages the premises conveyed by the above deed to secure the payment of the said bond.

FREDERICK A. COE
to
JANE C. PLACE.

Assignment of the above mortgage dated December 1, 1865; recorded in the said register's office, in liber 752 of mortgages, page 232, December 9, 1865.

JAMES K. PLACE AND WIFE, EPHRAIM B. Place and wife, Charles Place and wife, and Thomas M. Turlay and wife,
to
ALEXANDER H. WALLIS.

Mortgage dated Nov. 30, 1865; recorded in the said register's office, in liber 752 of mortgages, page 224, December 9, 1865. Recites the bond of James K. Place, Ephraim B. Place, Charles Place, and Thomas M. Turlay, of the same date as the mortgage, conditioned to pay $25,000 November 30, 1870, with interest at the rate of seven per cent. per annum, payable semi-annually, and mortgages the premises conveyed by the above deed to secure the payment of the said bond.

731 ALEXANDER H. WALLIS
to
SUSAN A. PLACE.

Assignment of the above mortgage, dated December 1, 1865; recorded in the said register's office, in liber 752 of mortgages, page 231, December 9, 1865.

EPHRAIM B. PLACE AND WIFE
to
JAMES D. SPARKMAN AND JAMES K. PLACE.

Deed dated April 12th, 1866; recorded in said register's office, in liber 973 of conveyances, page 207, April 18th, 1866; consideration $10,000. Conveys his interest in said premises on South and Front streets.

JAMES K. PLACE, CHARLES PLACE, AND James D. Sparkman, individually, and as survivors of the late firm of Place & Turlay, and Susan A. Place and Mary F. Place,
to
JANE C. PLACE.

Mortgage dated March 23, 1867; acknowledged May 29, 1867; recorded

in said register's office in liber 805 of mortgages, page 586, June 3, 1867. Recites the bond of James K. Place, Charles Place, and James D. Sparkman, bearing the same date as the said mortgage, conditioned to pay the sum of $50,000, on the 23d of March, 1868, with interest at the rate of seven per cent. per annum, payable semi-annually, and mortgages the same premises on South and Front streets to secure the payment of the said bond.

JAMES K. PLACE, CHARLES PLACE, AND James D. Sparkman, as survivors of Place & Turlay,
to
LEWIS W. BURRITT, J'R.

Deed dated May 22d, 1867, recorded in said register's office in liber 1013 of conveyances, page 394, June 11th, 1867; consideration, $165,000. Conveys the said premises on Front and South streets.

LEWIS W. BURRITT, J'R,
to
THE PLACE SUGAR-REFINERY.

Deed dated May 30, 1867, recorded in said register's office in liber 1013 of conveyances, page 395, June 11, 1867; consideration, $200,000.

732 EXHIBIT No. 63.

Proceedings under Stilwell act.

The people of the State of New York, by the grace of God free and independent. To all to whom these presents shall come or may concern, greeting:

Know ye that we, having examined the records and files in the office of the clerk of the county of New York and clerk of the supreme court [L. S.] of said State for said county, do find a certain record of proceedings under the non-imprisonment act there remaining, in the words and figures following, to wit:

The people of the State of New York, to the sheriff of the city and county of New York, greeting:

Whereas John Lewis Phipps, Charles Paul Phipps, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips did, on the fourteenth day of December, make application to the officer issuing this warrant for a warrant to arrest James K. Place; and whereas satisfactory evidence has been adduced before said officer that there is a debt or demand due from the said James K. Place to the said John Lewis Phipps, Charles Paul Phipps, Williams Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips, amounting to more than fifty dollars, and for which the said James K. Place cannot be arrested or imprisoned according to the provisions of the act entitled "An act to abolish imprisonment for debt, and to punish fraudulent debtors," passed April 26th, 1831, and that a suit has been brought in the supreme court of the State of New York by said John Lewis Phipps and others, as above, against said James K. Place, and that said James K. Place has assigned and disposed of some of his property with the intent to

defraud his creditors, and that he fraudulently contracted the debt respecting which the said suit is brought:

You are hereby commanded that you arrest the said James K. Place and bring him before the officer issuing this warrant without delay, then and there to abide such further order as may be made in the premises.

And hereof fail not at your peril.

733 Given under my hand at the city of New York, this 14th day of December, in the year one thousand eight hundred and sixty-seven.

(Signed) GEORGE G. BARNARD,
Justice Sup. Court.

FOSTER & THOMSON,
Plaintiffs' Attorneys.

To the honorable George G. Barnard, one of the justices of the supreme court:

The application of John Lewis Phipps, Charles Paul Phipps, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips respectfully shows unto your honor that they have claim against James K. Place and James D. Sparkman, for which they have brought an action in the supreme court of the State of New York, and which action is now pending, for the sum of one hundred and seventeen thousand dollars and interest from the 23rd November, 1867, justly due and owing from the said James K. Place and James D. Sparkman to your applicants, and that your applicants believe that the said James K. Place has assigned and disposed of some of his property with the intent to defraud his creditors, and that the defendants fraudulently contracted the debt respecting which said suit is brought.

Wherefore, your applicants apply for a warrant to be directed to some sheriff, constable, or marshal in the county in which your honor resides, commanding him to arrest the said James K. Place and bring him before your honor without delay, then and there to abide such further order as shall be made in the premises.

And your applicants, &c.

Dated this fourteenth day of December, 1867.

CHA'S T. GOSTENHOFER.
J. L. PHIPPS, & CO.

FOSTER & THOMSON,
Pl'ffs' Att'ys.

CITY AND COUNTY OF NEW YORK, *ss:*

Charles Thomas Gostenhofer, being duly sworn, doth depose and say that James K. Place and James D. Sparkman are justly indebted unto John Lewis Phipps, Charles Paul Phipps, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips, trading under the firm of J. L. Phipps & Co., in the sum of one hundred and seventeen thousand dollars, and interest from 23d

734 November, 1867, and for which said debt, according to the provisions of the act entitled "An act to abolish imprisonment for debt, and to punish fraudulent debtors," passed April 26th, 1831, the said James K. Place cannot be arrested or imprisoned. That the said J. L. Phipps & Co. have brought an action in the supreme court of the State of New York to recover on said indebtedness.

And this deponent further saith, as is alleged and shown by his affidavit of 26th November, 1867, and herewith presented, the said defendant James K. Place has assigned and disposed of some of his prop-

erty with the intent to defraud his creditors. and that he fraudulently contracted the debt respecting which the said suit is brought.

CHARLES T. GOSTENHOFER.

Sworn this 13th day of December, 1867, before me.

E. R. ROBINSON,
Notary Public, N. Y.

New York supreme court.

JOHN LEWIS PHIPPS, CHARLES PAUL PHIPPS, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips
against
JAMES K. PLACE AND JAMES D. SPARKMAN.

CITY AND COUNTY OF NEW YORK, *ss:*

Charles Thomas Gostenhofer, of the city of New York, being duly sworn, deposes and says that he is one of the plaintiffs herein, and that the said plaintiffs are copartners, doing business in the city of
735 New York, under the name of J. L. Phipps & Co.; that the defendants are copartners, doing business in said city, under the name and firm of J. K. Place & Co.; that a cause of action exists in favor of the plaintiffs against the defendants, and that the grounds thereof are as follows:

That in the city of New York, and on or about the 30th day of October, 1867, the said defendants received and obtained from the plaintiffs 4,500 bags of coffee, to hold the same on storage, as the property of the plaintiffs, according to the terms of a receipt in writing at the time signed by the defendants and delivered to the plaintiffs, and which said receipt is as follows:

"NEW YORK, *30th Oct.*, 1867.

"Received from Mess'rs J. L. Phipps & Co., of New York, the merchandise specified in the bill of lading, per Naiad, from Rio de Janeiro, viz:

"P A 1,000
"P B 1,000
"P C 1,000 } Four thousand five hundred bags of coffee.
"P D 1,000
"P E 500

In consideration of which we agree to hold the same on storage as their property, (with liberty to sell the same, and to account for the proceeds to them,) until the bills of exchange drawn on Messrs. Phipps & Co., of Liverpool, for the purchase-money of the said goods, shall have been remitted for by us, or satisfactorily provided for by us, and to keep said property insured against fire, and free from incumbrance, the intention of this undertaking being to protect and preserve unimpaired the lien of Messrs. J. L. Phipps & Co. on the said property.

(Signed) "JA'S K. PLACE & CO."

That the said coffee therein mentioned had been imported from Rio de Janeiro aforesaid by the said plaintiffs at the request of the said defendants, with the intention that the said defendants should take and

have the same by the payment by them of certain bills of exchange which had been drawn for the purchase-money thereof, and certain expenses by plaintiffs' house in Rio de Janeiro, upon their house in Liverpool, England, and the funds for the payment of which, it was intended, should be remitted by the defendants, with a view that they should, upon such remittance and payment, own and have the said coffee.

736 That after the said defendants received the said 4,500 bags of coffee aforesaid, in a fiduciary capacity, on storage, and as the property of the plaintiffs, they sold 4,481 bags of the same, and at various times between the 31st day of October and the 7th day of November received from the purchasers payment thereon, and that said defendants received and realized, as the avails and proceeds of such coffee, as deponent believes, the sum of one hundred and seventeen thousand ($117,000) dollars, and having so received and obtained the same from plaintiffs' said coffee, they did not account therefor to these plaintiffs, nor deliver over the same to them, but converted the same and have appropriated it to their own private use; and although the delivery over thereof to the plaintiffs has been demanded by deponent, the said defendants have failed and refused to deliver the same.

That the value of the said coffee at the time of its sale was one hundred and seventeen thousand ($117,000) dollars.

And deponent further says that since the sale of said coffee and the receipt by the defendants of the purchase-money thereof, namely, on the 20th day of November instant, the said defendants suspended payment, and acknowledged and announced themselves insolvent, and, as deponent is informed and believes, are deficient in assets for payment of their debts over a million of dollars; and deponent charges and alleges that at the time of the receipt by the defendants of the said moneys, upon the sale of the said coffees of these plaintiffs, and so held for them as their property, the said defendants were utterly bankrupt and insolvent, and knew themselves so to be, and that the sale of said coffee, and receiving the purchase-money thereof, was a fraudulent practice upon these plaintiffs, and done with intent to cheat and defraud them.

That the said defendant James K. Place, after receiving possession of the coffee of these plaintiffs on the 30th day of October, 1867, and when selling or about to sell the same above mentioned, being the owner of a valuable store upon the corner of Front and Pine streets, in the city of New York, conveyed the said store for the nominal consideration of one thousand dollars to Hamilton Wallis, with the intent and for the purpose that it should be conveyed by said Wallis to Susan A.

737 Place, the wife of the said James K. Place, and put out of the name of the said James K. Place, and be beyond the reach of process against him, the said James K. Place, which might be issued arising out of the frauds then contemplated or being committed by the said James K. Place; that the said Wallis did, for a like nominal consideration of one thousand dollars, convey the said store and premises to the said Susan A. Place, and both of said deeds have been recorded in the office of the register of the city and county of New York.

That the said deed to said Wallis is dated on the first day of November instant, and the deed by him to said Susan A. Place is dated the eleventh day of November, and both were recorded on the eleventh day of November instant.

That such property, when conveyed, was, as deponent believes, worth much more than one thousand dollars above any incumbrance thereon;

and in said deeds the grantees respectively did not agree to assume and pay the amount of such incumbrance or incumbrances.

And deponent charges and alleges that such property above mentioned was assigned and disposed of by said James K. Place, with intent to defraud his creditors.

CHA'S T. GOSTENHOFER.

Sworn to before me this 26th day of November, 1867.

EDWIN F. COREY, JUN.,
Notary Public of New York.

(Endorsed:) Filed November 26th, 1867.

New York supreme court.

JOHN LEWIS PHIPPS AND OTHERS } *ags't* JAMES K. PLACE AND ANOTHER. }

CITY AND COUNTY OF NEW YORK, *ss:*

Bernard Reilly, being duly sworn, deposes and says:

That he is a deputy sheriff of the city and county of New York; that on the 26th day of November, 1867, a warrant of attachment for $117,000 and interest, issued by the plaintiffs against the defendant James
738 K. Place in this action to John Kelly, sheriff of the city and county of New York, was put into the hands of deponent for service; that deponent, upon the said 26th day of November, proceeded to the place of business of the said defendants, and under said warrant of attachment levied upon all the books of account of said defendants in said place of business, with the intent and for the purpose of obtaining from the same the means of levying upon property and claims to apply upon said warrant.

That upon the 5th day of December, 1867, deponent, upon reference to the said books of account so levied upon, with a view to proceeding in the execution of the said writ, discovered that the books of account kept by said defendant at a recent date, and showing the transactions of the said defendant during the present year, are not in said place of business, but have been removed therefrom, and that the said James K. Place, when inquired of as to the place of removal or concealment of the said missing books, stated to deponent that such removal had not been made since the said levy on the said 26th day of November, and that all the books of account which were in that place of business on that day are still there.

And deponent further says that among the missing books so removed or concealed is the ledger last in use by said defendant.

That deponent asked the said James K. Place where said ledger was, but said Place would not inform deponent, but said that he did not know.

BERNARD REILLY.

Sworn to before me this 7th day of December, 1867.

DANIEL MOORE,
Com'r of Deeds.

I have attached the within-named James K. Place, and herewith produce him in court, as by the within I am commanded.

December 16th, 1867.

(Signed) JOHN KELLY, *Sheriff.*

CITY AND COUNTY OF NEW YORK, *ss:*

James K. Place, being duly sworn, says:

That he has been arrested by the sheriff of the city and county
739 of New York, under and by virtue of a warrant issued by Hon. George G. Barnard, justice of the supreme court, dated December 14, 1867, and purporting to be issued under the provisions of the act entitled "An act to abolish imprisonment for debt, and to punish fraudulent debtors," passed April 26, 1831; that said warrant was granted in an action in the supreme court, in which action John Lewis Phipps and others are plaintiffs and this deponent and James D. Sparkman are defendants; that in said action an order of arrest was granted by said Justice Barnard on application of said plaintiffs against said defendants, and that by virtue of said order of arrest the said defendants have been arrested and held to bail in the sum of one hundred and thirty thousand dollars; that in said action an attachment was also granted by said justice against the property of this deponent, and that the affidavit of Charles T. Gostenhofer, of November 26, 1867, annexed to the papers on which said warrant was granted, is the identical affidavit on which said attachment was issued, and comprises the whole of the affidavit on which said order of arrest was granted; that a motion has been noticed on behalf of the defendants in said action for the vacating of said order of arrest and attachment, and that the said motion is noticed upon affidavits of which true copies are hereto annexed and made part of this affidavit, and deponent says that the matters stated in said affidavits are true and correctly stated therein, and this deponent refers to said affidavits as a full answer to the affidavits on which said warrant was granted; and this deponent says that the annexed, marked "B," is a true copy of the plaintiffs' complaint in said action served on deponent's attorneys.

And this deponent protests against his being held in arrest under said warrant, on the ground that the same was improperly granted and without jurisdiction, and in violation of the provisions of said act, inasmuch as it appears from said complaint and the affidavits on which said warrant was granted that the said action is not one of those specified in said act, and deponent submits that on the facts the said warrant should be vacated and discharged.

And this defendant controverts the allegations in the affidavits on which the warrant herein was issued, that he has assigned and disposed of some of his property with the intent to defraud his creditors,
740 and that he fraudulently contracted the debt respecting which this suit is brought.

JA'S K. PLACE.

Sworn this 17th day of December, 1867, before me.

JOHN B. McKEAN,
Notary Public, N. Y. Co.

New York supreme court.

JOHN LEWIS PHIPPS, CHARLES PAUL PHIPPS, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips
against
JAMES K. PLACE AND JAMES D. SPARKMAN.

CITY AND COUNTY OF NEW YORK:

James K. Place, one of the defendants above named, being duly

sworn, doth depose and say that he was formerly a member of the co-partnership firm of J. K. & E. B. Place, who carried on business in the city of New York as importers of and dealers in teas, coffee, and spices, which firm was composed of Ephraim B. Place and this deponent, and was dissolved on the first day of December, in the year 1865, when the firm of James K. Place & Co. was formed, composed of these defendants in this action, who succeeded to the business of the said firm of J. K. & E. B. Place, and continued to carry on business at the same place formerly occupied by the said J. K. & E. B. Place.

And this deponent further saith that the plaintiffs prior to April, 1865, were and ever since have been bankers in Liverpool, England, under the name and firm of Phipps & Company, having a branch business in the city of New York under the firm-name of J. L. Phipps & Company, and at Rio de Janeiro, Brazil, under the firm-name of Phipps Brothers & Company; that prior to the month of April, in the year 1865, the said firm of J. K. & E. B. Place made an arrangement
741 with the said plaintiffs, at their said branch house in the city of New York, whereby said plaintiffs, by and through their said branch house at Rio de Janeiro, should purchase coffee upon the orders and for and on account of the said J. K. & E. B. Place, and advance the money for such purchase, for the price of which their charges and expenses they, the said plaintiffs, by their house at Rio Janeiro, should draw bills of exchange on the said plaintiffs' principal house in Liverpool at three months or ninety days after sight; that said coffee so purchased should be shipped from Rio Janeiro to New York, consigned to the said plaintiffs' said house in New York; that upon advice being given by the said plaintiffs' said house in Rio Janeiro to the plaintiffs' said house in New York of the purchase of said coffee and the drawing of the said bills of exchange, the said plaintiffs' house in the city of New York should give notice thereof to the said J. K. & E. B. Place, who should pay to the said plaintiffs' house in New York a sufficient sum of money to pay said bills of exchange in Liverpool or London at the maturity thereof, and in time to transmit said money to London or Liverpool to meet and pay said bills of exchange at maturity; that samples of the coffee purchased should be sent to the said J. K. & E. B. Place by steamer in advance of the said coffee, to enable them, if so disposed, to sell said coffee to arrive; that upon the arrival of the said coffee in the city of New York, the bills of lading and other shipping-papers of the said coffee, to enable J. K. & E. B. Place to obtain possession of said coffee, and to enter and pass the same through the custom-house, should be delivered by the said plaintiffs' said house in the city of New York to the said J. K. & E. B. Place, upon their signing and delivering to the said plaintiffs in New York a receipt or agreement in the form following, that is to say:

"Received from Mess'rs J. L. Phipps & Co., of New York, the merchandise specified in the B. L. per .

"In consideration of which we agree to hold the same on storage as their property (with liberty to sell the same and to account for the proceeds to them) until the bills of exchange drawn on Mess'rs Phipps & Co., of Liverpool, for the purchase-money of the said goods, shall have been remitted for us or satisfactorily provided for by us, and to keep said property insured against fire and free from incumbrance, the
742 intention of this understanding being to protect and preserve unimpaired the lien of Mess'rs J. L. Phipps & Co. on said property."

And this deponent further saith that said arrangement so made as aforesaid between said plaintiffs and said J. K. & E. B. Place was con-

tinued by the firm of James K. Place & Company up to the time of suspension of payment by the said James K. Place & Company on the 20th of November, 1867.

And this deponent further saith that since the making of the said arrangement with the plaintiffs, the said J. K. & E. B. Place and James K. Place & Company have ordered and imported from Rio Janeiro, through the said plaintiffs, and under and in pursuance of the said arrangement, seven lots of coffee, as follows: April 10, 1865, 3,000 bags, per ship ; August 10, 1865, 2,800 bags, per ship Neva; September 6, 1865, 200 bags, per ship Express; Nov. 17, 1865, 4,500 bags, per ship P. C. Warwick; December 16, 1865, 4,000 bags, per ship Emily Agnes; December 16, 1865, 4,000 bags, per ship Eleanor; April, 1866, 4,500 bags, per ship Content; October 28, 1867, 4,500 bags, by ship Naiad.

And this deponent further saith that in each and every case of the above-mentioned purchases and importations of coffee, through and under the said arrangement with the plaintiffs, the samples of the coffee purchased were sent and delivered to the said firm of J. K. & E. B. Place, or said James K. Place & Company, by the plaintiffs, without any objection or restriction whatever; and upon the arrival of each and every of the said lots of coffee, the bills of lading and other shipping-papers therefor were delivered to the said J. K. & E. B. Place or James K. Place & Company, who signed and sent the plaintiffs a receipt or agreement in respect thereto, in accordance with the form hereinafter set forth. That each and every of the said lots of coffee were entered in and passed through the custom-house by the said J. K. & E. B. Place or the said James K. Place & Company, or by their authority, without any objection or interference by the plaintiffs; that each parcel of said lots of coffee, so purchased and imported as aforesaid, were received in the actual possession of the said J. K. & E. B. Place or James K. Place & Company, or their vendee thereof, without any objection by or interference from the said plaintiffs; and said several lots of coffee, or so much of each of them as was not sold to arrive, were on
743 their arrivals warehoused and insured by the said J. K. & E. B. Place or James K. Place & Company, and afterwards sold by them, and the proceeds of said sales received by them, endorsed by them, and mixed with their other property, assets, and funds, so that the identity of said proceeds was absolutely lost, without any objection by or interference from the said plaintiffs, although they must have known from the course of the business in the city of New York, the general custom in the city of New York in respect to like transactions, and the business of the said J. K. & E. B. Place and James K. Place & Company, and the purposes for which they imported said coffee, that each and every of said lots of coffee would be warehoused and insured by the said J. K. & E. B. Place and James K. Place & Company, in their own names, and sold by them, and the proceeds or avails of the said sales be received and used by them, and be so mixed with their other property, assets, and funds that their identity would be wholly lost.

And this deponent further saith that prior to the day of November, in the year 1867, the said plaintiffs never, directly or indirectly, asked for, demanded, had, or received any warehouse-receipts for, policies of insurance for, or proceeds or avails of sales of the whole or any part of said lots of coffee, or any or either of them, and never asked for or demanded any account whatever of the sales of any or either of the said lots of coffee, or of any part of either of them.

And this deponent further saith, the forty-five hundred bags of coffee received by this deponent through the said arrangement with said plaintiffs, per the ship Naiad, was ordered by a letter from the said James K. Place & Company to the plaintiffs' house in Rio Janeiro, sent on or about its date, of which the following is a copy:

"[James K. Place & Co., 132 and 134 Front street.]

"NEW YORK, *June* 22, 1867.

"Mess'rs PHIPPS BRO'S & CO.,
"*Rio de Janeiro, Brazil, S. A.:*

"GENTLEMEN: We take pleasure in acknowledging the receipt of your favor of 25th ult., per steamer North America, with its valued quotations and market transactions. Herewith we beg to request that you will purchase and ship to this port, for our account and risk, a
744 cargo of coffee not exceeding forty-five hundred bags, to consist principally of prime quality of the new crops. However, should you find it necessary to do so, we shall expect you to make purchase of the medium and low grades, considerably cheaper than the prime, as the latter is in next favor in this market. You will be pleased to consign the cargo to Mess'rs J. L. Phipps & Co., this city, with whom we will make settlement for its cost to meet the maturity of your drafts for same on Mess'rs Phipps & Co., and you will order insurance on same to be effected in Liverpool by Mess'rs Phipps & Co., warranted free from particular average, unless stranded, sunk, or burned.

"We would call your attention to the fact that coffee of a full-green color is the most desirable, and that when the quality is low a large flat bean is to be preferred. Should you see strong reasons therefor, the execution of this order may be postponed for a time, as in your judgment and discretion you may deem best.

"With renewed assurances of our regard, we remain, gentlemen, yours truly,

(Signed) "JA'S K. PLACE & CO."

That samples of the said coffee which were purchased by the plaintiffs pursuant to the order contained in said letter, which coffee so purchased was forwarded to the city of New York by the ship Naiad, arrived in the city of New York, per the steamer South America, on the 21st day of October, in the year 1867, and were delivered to said James K. Place & Company immediately on their arrival, without any objection from or interference by the plaintiffs; that by means of said samples the said James K. Place & Company immediately commenced negotiations for the sale of said coffee, which resulted in sales made by them thereof as follows:

On the 28th day of October, 1867, four hundred and ninety-seven bags to Reid, Murdock & Fisher, to be paid for by them in gold coin thirty days thereafter. On the 30th day of October, 1867, nine hundred and eighty-one bags to D. S. Benedict & Son, to be paid for by them in gold coin in thirty days thereafter; and on the 31st day of October, 1867, three thousand bags to D. J. & Z. S. Ely, to be paid for in gold coin fifty days thereafter; that on each sale the purchasers and each of them deposited with the said J. K. Place & Company currency to the amount
745 of the sale in gold, with the then premium on gold added thereto, as collateral security for the payment in gold coin of the amount of the purchase on the day *of* the same should become due and payable as aforesaid, and in the case of the sale of D. J. & Z. S. Ely the said

James K. Place & Company agreed to allow them interest on the amount of such deposit until the sale to them should be due and payable as aforesaid. That such deposit of currency was not intended or meant to be a payment for said goods in either case, but a mere security, which by the agreement was to be returned by said James K. Place & Company to the said several purchasers depositing the same upon the maturity of their several bills for said several purchases, and the payment thereof in gold coin.

And at the commencement of this action, and at the time of the granting and allowing the orders of arrest, and the warrant of attachment in this action, neither of the said bills for said purchases had become due and payable, or had been paid.

And this deponent further saith that the said ship Naiad, having on board forty-five hundred bags of coffee, purchased by the said plaintiffs at Rio Janeiro pursuant to the order contained in said letter, a copy of which is hereinbefore set forth, arrived at the port of New York, and the bills of lading and other shipping-papers of said coffee were immediately sent by the plaintiffs to the said James K. Place & Company, so endorsed and transferred and in such a shape that the said James K. Place & Company could enter and pass the said coffee in and through the custom-house; and said James K. Place & Company did immediately enter and pass said coffee in and through the custom-house, and delivered four thousand four hundred and seventy-eight bags thereof to the several firms to whom it had been sold, as hereinbefore stated, at or about the date of said several sales as above stated, and received from them severally the deposit of currency agreed to be made by them severally, as hereinbefore stated, and deposited the same to their own credit in bank, mixed with their other moneys, and had, before the commencement of this action, used the same in and about their business. That upon the delivery of said shipping-papers to the said James K. Place & Company, they, at the request of the plaintiffs, and in
746 the usual course of such business, signed and sent to the plaintiffs a printed receipt or agreement, furnished by the plaintiffs, of which the following is a copy:

"NEW YORK, *30th Oct.*, 1867.

"Received from Mess'rs J. L. Phipps & Co., of New York, the merchandise specified in the bill of lading, per Naiad, from Rio de Janeiro, viz:

"P H 1,000
"P B 1,000
"P C 1,000 } Four thousand five hundred bags of coffee.
"P D 1,000
"P E 500

"In consideration of which we agree to hold the same on storage as their property (with liberty to sell the same and to account for the proceeds to them) until the bills of exchange drawn on Mess'rs Phipps & Company, of Liverpool, for the purchase-money of the said goods, shall have been remitted for by us, or satisfactorily provided for by us, and to keep said property insured against fire and free from incumbrance, the intention of this undertaking being to protect and preserve unimpaired the lien of Mess'rs J. L. Phipps & Company on the said property.

(Signed) "JA'S K. PLACE & CO."

That on the 30th day of October, in the year 1867, the said plaintiffs, from their said house in the city of New York, sent to the said James K. Place and Company a partly printed and partly written notice, of which the following is a copy:

"No. 88 WALL STREET, NEW YORK,
30th October, 1867.

"Mess'rs JA'S K. PLACE & CO., *New York:*

"DEAR SIRS: We beg leave to inform you that the drafts of Mess'rs Phipps Brothers & Co., on Mess'rs Phipps & Co., of Liverpool, for the purchase of forty-five hundred bags of coffee, per Naiad to New York, for your account, mature in London about the 14th January, 1868, to the amount of £15,555 2s. 5d. st'g.

"You are respectfully requested to cover this amount by sending bills of exchange to us on or before the 17th December next.

"We remain, dear sir, faithfully and respectfully,

"J. L. PHIPPS & CO."

747 And this deponent further saith, that after the sale and delivery of said coffee to the several firms above mentioned, and after the receipt by said James K. Place & Company of said deposits of currency as collateral security, as hereinafter mentioned, and the use of the same by the said James K. Place & Company in their business, as hereinbefore stated, and before the account of said sales, or either of them, in gold coin had become due and payable, as hereinbefore stated, Charles T. Gostenhofer, one of said plaintiffs, called upon this deponent, and, for the first time in all the transactions between said J. K. & E. B. Place and said J. K. Place & Company and said plaintiffs, asked for an account of the proceeds of the sales of three thousand bags of the said forty-five hundred bags of coffee per the ship Naiad, and demanded that the proceeds of said sales should be handed over to the plaintiffs, so far as the same had been sold; and asked that the currency deposited with said James K. Place & Company as aforesaid should be handed over to the said plantiffs; that at that time this deponent had no idea or suspicion that the said James K. Place & Company would suspend payment, and supposed that they had and could command means enough to pay all their debts and liabilities and pursue their business; that this deponent declined to hand over said currency so deposited as aforesaid, and expostulated with the said Gostenhofer as to his making so unusual a demand, and the subject of his said demand was the subject of negotiations and conversations between this deponent and Gostenhofer for several days; that said James K. Place & Company had for a number of years and up to this time imported teas and coffees under similar arrangements, and that existing between the plaintiffs and them, and known as bankers' credits, with several other banking-houses, to very large amounts, and as have been usual and the custom in the city of New York in respect to all such arrangements and goods imported under them, and had mixed with their own funds and used the proceeds of goods imported under said bankers' credits, and relied upon the means which they would obtain from sales of goods then on hand and about arriving, imported under said bankers' credits, to carry on their business; that at the time the said Gostenhofer made said application as aforesaid, this deponent was alarmed lest other bankers, instigated by the plaintiffs or by their example, might make similar requests, and
748 endeavor to enforce them, and began at once to look over and into the business and affairs of the said James K. Place & Company, which he had not made any critical examination of since the first

day of January, 1867, when the annual account of stock and balancing of their books was had; that during such examinations, which were continued while he was negotiating and conversing as aforesaid with said Gostenhofer, another banking-house to which said James K. Place & Company was largely indebted, under similar arrangements as that existing with the plaintiffs, made a similar demand upon said James K. Place & Company, in consequence of which, and the apprehension of other demands of a similar nature, this deponent concluded that said James K. Place & Company ought to suspend payment, and they did consequently suspend payment on the 20th day of November, 1867, but that up to a very few days prior to that time this deponent had no expectation that said firm of James K. Place & Company would suspend payment at all, and verily believed that they could go on and pay all their debts and liabilities at the maturity thereof.

And this deponent further saith, that after the suspension of payment by the said James K. Place & Company, the said plaintiffs, without objection from the said James K. Place & Company, took actual possession of the balance of forty-five hundred bags of coffee, per ship Naiad, remaining unsold to the firms hereinbefore named, and have ever since had the actual and exclusive possession thereof.

And this deponent further saith, that the defendant James D. Sparkman was a general partner of the said firm of James K. Place & Co., but is a man advanced in years, and took no active part in the business of said firm, and never knew much of its operations, business, or affairs, and that during all the time of the existence of said firm, he was president of a bank in the city of New York, whose banking-house was his principal place of resort and stoppage during business hours of each business day.

And this deponent further saith that the defendants never received or obtained any goods or coffee from the plaintiffs except by direct purchases of goods not previously ordered by the defendants, and in the manner, upon the terms, and for the purposes hereinbefore men-
749 tioned and set forth: that no coffee was ever imported by the plaintiffs from Rio de Janeiro or any other place at the request of the defendants, except as is hereinbefore mentioned and set forth, or with any intention that the defendants should take and have the same by the payment by them of any bills of exchange whatever, except as is hereinbefore set forth, and it was never intended, except as is hereinbefore stated, that upon any remittance by the defendants for the payment of any bills of exchange, on the payment of said bills, and only upon such remittance and payment, they should own or have said coffee or any other goods; that the defendants never received said forty-five hundred bags of coffees or any part thereof by the ship Naiad, in a fiduciary capacity or on storage, or as the property of the plaintiffs; that the defendants have never as yet received from the purchasers of any of said coffee any payment therefor, or realized as the avails and proceeds of said coffee, or any part thereof, the sum of one hundred and seventeen thousand dollars, or any other sum, except as hereinbefore stated and set forth; that the said defendants at the time they received said coffee were never expected to account therefor, or for the avails thereof, to or by the plaintiffs, or to deliver said avails, or any part thereof, to the said plaintiffs; that said defendants have never converted said coffee, or any part thereof, or the avails thereof, or any part of such avails, to their own private use, and, except as is hereinbefore stated, have never appropriated said avails, or any part thereof, to their own private use, but except as is hereinbefore stated; that the delivery of

said coffee or any part thereof has never been demanded of the defendants by the plaintiffs.

That the said defendants, except as is hereinbefore stated, have not received the purchase-money for said coffee or any part thereof.

That the said defendants are not deficient in assets for payment of their debts of over a million of dollars or anything like that sum, and the information and belief of the plaintiff Charles T. Gostenhofer in that respect is without any foundation in truth or fact.

And this deponent further saith, that at the time of the receipt of the said coffee per ship Naiad, and of the avails of the sales of so much thereof as was sold as aforesaid, the defendants did not know or suspect themselves to be insolvent or bankrupt, but fully believed
750 that they had the means to pay all their debts and liabilities as they became due and payable.

And this deponent further deposes and says that the receipt of the said coffee from the ship Naiad, and the receiving the purchase-money thereof, or of so much thereof as was sold or security taken therefor as hereinbefore stated, was not a fraudulent practice upon the plaintiffs, or done with any intent to cheat and defraud them.

And this deponent further saith that the demand of the plaintiffs for and on account of said forty-five hundred bags of coffee per the ship Naiad is fifteen thousand five hundred and fifty-five pounds two shillings and five pence, sterling money of Great Britain, less the proportionate part thereof to be deducted therefrom for the coffee reclaimed by the plaintiffs as aforesaid, and no more, and that the amount which is due and payable to the plaintiffs, therefore, in the currency of the United States, will be regulated by the price of gold and exchange on the 17th day of December, 1867, and cannot now be determined or ascertained except as herein stated; the value of said coffee or the amount of avails of any part thereof is not the sum of one hundred and seventeen thousand dollars.

And this deponent further says that he was and now is the owner in fee of the lots of land situated on the westerly side of Front street, at the corner of Pine street, in the city of New York, and now known and designated as numbers 132 and 134 Front street, which two lots taken together and including a small lot of land fronting on Pine street, which has been taken in and now forms a part of said two lots of land, contains about forty feet in depth, and has erected thereon a large and valuable store. That said lots of land were purchased by the firm of J. K. & E. B. Place in the month of February, in the year 1864, and said store was begun to be erected shortly thereafter, and was completed and occupied about the month of April, in the year 1865; that said firm of J. K. & E. B. Place paid for said lots of land the sum of fifty-five thousand and two hundred dollars, and the building of said store cost the further sum of about fifty thousand dollars, making the whole cost of the said lots and building the sum of one hundred and five thousand two hundred dollars;
that the firm of J. K. and E. B. Place was dissolved on the 1st of
751 December, in the year 1865, Ephraim B. Place retiring therefrom and from business altogether, and thereupon the said lots of land were conveyed to this deponent, who has ever since held the title thereto; that said lots of land and the buildings thereon are incumbered by a mortgage of forty-one thousand dollars, given for a part of the purchase-money for said lots of land, and a further mortgage of seventy-eight thousand six hundred dollars, given originally on the 1st day of December, in the year 1865, to Ephraim B. Place for a loan of money to that amount then actually made by the said Ephraim B. Place to this deponent,

which mortgage was, at the request of the said Ephraim B. Place, satisfied of record on the 11th day of June, in the year 1867, without any part thereof being paid, and a new mortgage was made by this deponent to Jane C. Place at the time of satisfying said mortgage to Ephraim B. Place, for the same amount as the said original mortgage, to wit, seventy-eight thousand six hundred dollars.

That the said lots of land with the buildings thereon are valued by the assessors for the purposes of taxation at the sum of seventy thousand dollars, and there is now a tax due thereon for the sum of eighteen hundred and sixty-nine dollars.

And this deponent further saith that, in the latter part of the month of October, in the year 1867, he was desirous of raising some money to use in his business; that his wife had for several years owned and been possessed of certain personal property and securities which has been separate property, and in which this deponent had no interest, and this deponent applied to her for liberty to use the same, which she asse nted to, provided this deponent would secure her, which this deponent promised to do. That this deponent, for the purpose of securing his said wife for the loan of said personal property and securities, directed his attorney to have the said two lots of land and the buildings thereon conveyed to this deponent's said wife, and, in pursuance of such direction, deeds of conveyance of the same were made by this deponent to Hamilton Wallis, and by him to Susan A. Place, this deponent's said wife, and left at the office of this deponent's said attorney, who recorded the same without any direction from this deponent. That said deeds were never delivered to the said Hamilton Wallis or to the said Susan A. Place, and said Susan A. Place never heard or knew that they were executed or recorded.

752 That afterwards, and before the commencement of this action, this defendant ascertained that the purposes for which he desired to use the said personal property and securities belonging to his said wife could not be accomplished, and would not be of any advantage to this deponent if carried out, and he immediately gave up and abandoned all intention of using the said personal property and securities of his said wife, and never said anything more to her on the subject, and directed his attorney to perform the necessary deeds reconveying the said two lots of land and the buildings thereon to this deponent; and they were reconveyed to this deponent by a deed from Susan A. Place to Hamilton Wallis, dated the 19th day of November, 1867, and by a deed from the said Hamilton Wallis to this deponent, bearing date the 20th day of November, 1867, both of which deeds are acknowledged on the 20th day of November, 1867, and are now in the possession of this deponent.

And this deponent further saith that said conveyance by this deponent to Hamilton Wallis was not made with any intent or for any purpose of putting the property therein described beyond the reach of any process against this deponent or his property, and that said property described in said deed was not assigned or disposed of by this deponent with any intent to defraud his creditors, or to put the same beyond the reach of his creditors, or to hinder, delay, or defraud his creditors in any manner whatsoever.

JAMES K. PLACE.

Sworn to before me this 5th day of December, 1867.

JAMES J. CAMPBELL,
Notary Public, N. Y. County.

753 Supreme court.

JOHN L. PHIPPS AND OTHERS
against
JAMES K. PLACE AND JAMES D. SPARKMAN.

CITY AND COUNTY OF NEW YORK, *ss:*

Alexander H. Wallis, one of the defendants' attorneys, being duly sworn, doth depose and say that he was the attorney of the firm of J. K. & E. B. Place for several years prior to its dissolution on December 1, 1865, and has been the attorney of the firm of James K. Place & Company ever since its formation on said December 1, 1865; that he has read the affidavit of James K. Place hereunto annexed, and knows the contents thereof; that he has personal knowledge of the matters stated in said affidavit in relation to the purchase of the lands and premises on the corner of Pine and Front streets, in the city of New York, and of the mortgages given on said lands and premises, and the change of the second mortgage thereon, and said affidavit in respect to said matters is true.

And this deponent further saith, that in the latter part of the month of October, 1866, said James K. Place called upon this deponent and stated that he might, by the permission of his wife, make use of some securities belonging to her by borrowing money thereon, and if he used the same he desired to give her some security therefor, and for that purpose wished that this deponent would prepare deeds conveying the property on the corner of Pine and Front streets, belonging to him, to his wife; that in pursuance of said request of said James K. Place, this deponent caused to be prepared deeds of said James K. Place to Hamilton Wallis, a son of this deponent, and a single man, and from said Hamilton Wallis to Susan A. Place, which deeds were duly executed and acknowledged, and left with this deponent, who, without any request so to do, caused the same to be recorded on the 11th day of November, 1867.

754 That a few days thereafter said James K. Place called upon this deponent, and stated that he had concluded not to use the said securities of his said wife, as he doubted his ability to continue his business; and upon being informed by this deponent that the deeds already executed had been recorded, requested this deponent to prepare deeds reconveying the said property on the corner of Pine and Front streets to him, the said James K. Place, which deeds were prepared and duly executed and acknowledged, and delivered to the said James K. Place, to wit, a deed from Susan A. Place to Hamilton Wallis, and from Hamilton Wallis to the said James K. Place, which deeds are now in the possession of the said James K. Place.

A. H. WALLIS.

Sworn this 6th day of December, 1867, before me.

JAMES J. CAMPBELL,
Notary Public, N. Y. County.

Supreme court.

JOHN LEWIS PHIPPS AND OTHERS
against
JAMES K. PLACE AND JAMES D. SPARKMAN.

CITY AND COUNTY OF NEW YORK, *ss:*

Susan A. Place wife of James K. Place, one of the defendants above

named, being duly sworn, doth depose and say that no deed or other conveyance of any store or premises on the corner of Front or Pine street, made by Hamilton Wallis or any other person or persons for her or for her use or benefit, to her knowledge or belief, and that prior to the 20th instant this deponent never knew and never had any reason to suspect or believe that any deed or conveyance of any such store or premises, or of any lands or property, situate on the corner of Front and Pine streets, or on Front, or on Pine street, in said city, was
755 ever made, or contemplated to be made, by her husband, James K. Place, to Hamilton Wallis, or any other person or persons, or by said Hamilton Wallis, or any other person or persons, to this deponent.

And this deponent further saith, that she is, and for a long time past has been, possessed of personal property, invested in securities belonging to her, in which her said husband had no interest, directly or indirectly; that in or about the latter part of October last, her said husband informed her that he might be desirous of raising some money that he could use profitable in his business, and if he required it would like to use this deponent's said personal property and securities, or some part thereof, for that purpose, and, if he did so, would at the time of using the same give her ample security therefor; that this deponent consented to his making use of her said property and securities to raise money upon if she was secured, but never after that time knew anything on the subject, or was requested by her said husband to let him have the said property or securities.

SUSAN A. PLACE.

Sworn this 28th day of November, 1867, before me.

JAMES J. CAMPBELL,
Notary Public, N. Y. County.

B.

New York supreme court.

JOHN LEWIS PHIPPS, CHARLES PAUL Phipps, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips
against
JAMES K. PLACE AND JAMES D. SPARKMAN.

Place of trial, city and county of New York.

The plaintiffs, complaining, allege as follows:

756 That at all times since the 29th day of October, 1867, the said plaintiffs have been, and they still are, copartners, doing business in the city of New York, under the name of J. L. Phipps & Co., and that the defendants are, and during the said period have been, copartners, doing business under the name and firm of James K. Place & Co.

That in the city of New York, and on or about the 30th day of October, 1867, the said defendants received and obtained from these plaintiffs 4,500 bags of coffee, to hold the same on storage as the property of these plaintiffs, according to the terms of a receipt in writing at the time signed by the defendants and delivered to these plaintiffs, and which said receipt is as follows:

NEW YORK, 30*th October*, 1867.

Received from Mess'rs J. L. Phipps & Co., of New York, the merchandise specified in the bill of lading per Naiad, from Rio de Janeiro, viz :

P A 1,000
P B 1,000
P C 1,000 } Four thousand five hundred bags coffee.
P D 1,000
P E 500

In consideration of which we agree to hold the same in storage as their property (with liberty to sell the same and to account for the proceeds to them) until the bills of exchange drawn on Mess'rs Phipps & Co., of Liverpool, for the purchase-money of the said goods, shall have been remitted for by us, or satisfactorily provided for by us, and to keep said property insured against fire, and free from incumbrance; the intention of this undertaking being to protect and preserve unimpaired the lien of Mess'rs J. L. Phipps & Co. on the said property.

(Signed) JA'S K. PLACE & CO.

That the said coffee therein mentioned had been imported from Rio de Janeiro aforesaid by the said plaintiffs at the request of the said defendants, with the intention that the said defendants should take and have the same by the payment by them of certain bills of exchange which had been drawn for the purchase-money thereof, and certain expenses by plaintiffs' house in Rio de Janeiro, upon their house in Liverpool, England, and the funds for the payment of which, it was intended, should be remitted by the defendants, with a view that they should, upon such remittance and payment, own and have the said coffee.

757 That after the said defendants received the said 4,500 bags of coffee aforesaid in a fiduciary capacity, on storage and as the property of the plaintiffs, they sold 4,481 bags of the same, and at various times between the 31st day of October and the 7th day of November, inclusive, received from the purchasers payment thereon, and that said defendants received and realized, as the avails and proceeds of such coffee, as plaintiffs allege upon information and belief, the sum of one hundred and seventeen thousand dollars, and having so received and obtained the same for plaintiffs' said coffee, they did not account therefor to these plaintiffs, but converted the same to their own private use; and, although payment and delivery thereof to the plaintiffs has been demanded, the said defendants have failed and refused to pay over the same.

And the plaintiffs charge, upon information and belief, that the value of the said coffee at the time of the sale thereof was one hundred and seventeen thousand dollars.

Wherefore these plaintiffs demand judgment against the said defendants for the said sum of one hundred and seventeen thousand (117,000) dollars, with interest thereon from the 23d day of November, 1867, together with the costs and disbursements of this action.

FOSTER & THOMSON,
Plaintiffs' Attorneys.

CITY AND COUNTY OF NEW YORK, *ss:*

Charles T. Gostenhofer, being duly sworn, deposes and says that he is one of the plaintiffs in this action; that the foregoing complaint is true

of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

CHA'S T. GOSTENHOFER.

Sworn before me this 14th day of December, 1867.

THO'S C. INGERSOLL,
Notary Public.

Whereas John Lewis Phipps, Charles Paul Phipps, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips, made complaint and application before
758 me, the subscriber, one of the justices of the supreme court of the State of New York, residing in the city and county of New York, representing that they have a claim against James K. Place and James D. Sparkman, for which they have brought an action in the said supreme court of the State of New York, which is a court of record, and the said action is now pending, for the sum of one hundred and seventeen thousand dollars, and interest from November 23d, 1867, justly due and owing from the said James K. Place and James D. Sparkman to the said applicants, and that the said James K. Place has assigned, or disposed of some of his property with the intent to defraud his creditors, and that the defendants aforesaid fraudulently contracted the debt respecting which said suit is brought, and that for said debt, according to the provisions of the said act, entitled "An act to abolish imprisonment for debt, and to punish fraudulent debtors," passed April 26th, 1831, the said James K. Place cannot be arrested or imprisoned, and produced before me affidavits in support of said allegations, which were to me satisfactory; whereupon, in pursuance to the said act, I issued my warrant to the sheriff of the city and county of New York for the arrest of the said James K. Place, and he was by said sheriff arrested and brought before me at the city hall, in the city of New York, on the 16th day of September, 1867, when and where I proceeded to hear the parties; and then and there, on application of the defendant, adjourned the said hearing to the 17th day of December, 1867, at the same place, when and where I further heard the same parties, and the said defendant controverted the facts and circumstances on which said warrant issued, and verified his allegations by his own affidavit; and I then and there, on the application of the defendant, adjourned the said hearing to the 18th day of December, 1867, at the same place, when and where I further heard the said parties; and on the application of the defendant adjourned the said hearing to the 19th day of December, 1867, at the same place, when and where I further heard the parties, and adjourned the said hearing to the 20th day of December, 1867, at the same place, when and where I further heard the said parties, and adjourned the said hearing to the 21st day of December, 1867, at the same place, when and where I further heard the said parties, and adjourned the said hearing to the 23d day of December, 1867, at the same
759 place, when and where I further heard the said parties; and on application of the defendant I further adjourned the said hearing to the 24th day of December, 1867, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 26th day of December, 1867, at the same place, when and where I further heard the parties; and on application of the defendant further adjourned the said hearing to the 27th day of December, 1867, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 30th day of December, 1867, at the

same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 2d day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 4th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 6th day of January, 1868, at the same place, when and where I further heard the said parties; and on application of the defendant I further adjourned the said hearing to the 8th day of January, 1868, at the same place, when and where I further heard the said parties; and on application of the defendant I further adjourned the said hearing to the 10th day of Jan., 1868, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 11th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 13th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 15th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 17th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 18th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the
760 said hearing to the 20th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 22d day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 24th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 25th day of January, 1868, at the same place, when and where I further heard the parties; and on the said hearing, on this twenty-fifth day of January, in the year 1868, the parties being present before me, and I having duly heard and considered all the proofs and allegations of the parties, and I being satisfied upon the proofs produced to me that the allegations of the said complainants, that the said James K. Place has assigned and disposed of some of his property with intent to defraud his creditors, were substantiated:

Now I, George G. Barnard, a justice of the supreme court of the State of New York, do decide, determine, and adjudge that the said James K. Place has assigned and disposed of some of his property with intent to defraud his creditors, and, pursuant to the provisions of the statute in such case made and provided, that he be committed to the custody of the sheriff of the city and county of New York, to be by him held in custody in the jail of the said city and county of New York until discharged according to law, and that my commitment to such custody and jail do issue unless the same be stayed and said James K. Place be discharged from custody according to law.

In testimony whereof I have hereunto set my hand, at the city of New York, this twenty-fifth day of January, in the year 1868.

761 Before the Hon. George G. Barnard, a justice of the supreme court of the State of New York.

IN THE MATTER OF THE APPLICATION OF JOHN L. Phipps, Charles Paul Phipps, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips, for the arrest, &c., of James K. Place, pursuant to the provisions of an act entitled "An act to abolish imprisonment for debt, and to punish fraudulent debtors," passed April 26, 1831.

To the Hon. George G. Barnard, a justice of the supreme court:

Whereas I, the undersigned, James K. Place, have, in the above-entitled matter, been convicted and adjudged to have assigned and disposed of some of my property with intent to defraud my creditors, and ordered to be committed to the custody of the sheriff of the city and county of New York, to be kept by him in custody in the jail of said city and county until discharged according to law, I do herewith present and deliver an inventory of my estate and an account of my creditors, and offer to make an assignment of all my property and estate to an assignee, to be appointed according to law, to the end that no commitment shall issue or be granted pursuant to such decision and judgment.

Dated New York, January 25, 1868.

JAMES K. PLACE.

762 Before the Hon. George G. Barnard, a justice of the supreme court of the State of New York.

IN THE MATTER OF THE APPLICATION OF JOHN L. Phipps, Charles Paul Phipps, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips, for the arrest, &c., of James K. Place, pursuant to the provisions of an act entitled "An act to abolish imprisonment for debt, and to punish fraudulent debtors," passed April 26, 1831.

The above-named James K. Place having been brought before me on a warrant issued by me under and in pursuance of the provisions of an act entitled "An act to abolish imprisonment for debt, and to punish fraudulent debtors," passed April 26, 1831, on the complaint of Charles Paul Phipps and others above named that he had fraudulently assigned and disposed of his property with intent to defraud his creditors, and that he had fraudulently contracted a debt to said complainants:

I having heard the proofs and allegations of the parties, and such proceedings having been had before me, I did, on the 25th day of January, in the year 1868, adjudge and decide that the said James K. Place had been guilty of assigning and disposing of some of his property with intent to defraud his creditors, and that he should be committed to the custody of the sheriff of the city and county of New York, and be held by him in custody in the jail of the said city and county until discharged according to law, and my commitment issue for that purpose; and be-

fore any commitment had been actually made and granted by me, the said James K. Place did present and deliver to me an inventory of his estate and an account of his creditors, and offered to make an
763 assignment of all his property and estate to an assignee to be appointed according to law, to the end that no commitment should issue or be granted pursuant to such decision and judgment; and I being satisfied that the application and account of the said James K. Place are correct, and that the proceedings on the part of the said James K. Place are just and fair, and on motion of M'r Luther R. Marsh, of counsel for the said James K. Place, it is ordered that the property and estate of the said James K. Place, except the articles which are by law exempt from execution, be assigned to Henry J. Cullen, j'r, of the city of Brooklyn, for the benefit of the said applicants and complainants above named, and those entitled thereto, or to the proceeds thereof, according to law.

Dated the 25th day of January, 1868.

GEORGE G. BARNARD,
Justice Supreme Court.

I, Henry J. Cullen, j'r, having been appointed assignee of James K. Place in the above order named, do swear that I will well and truly execute the trust by that appointment reposed in me, according to the best of my skill and understanding.

HENRY J. CULLEN, J'R.

Sworn before me this 25th day of January, 1868.

GEORGE G. BARNARD,
Justice Supreme Court.

Before Hon. George G. Barnard, a justice of the supreme court of the State of New York.

IN THE MATTER OF THE APPLICATION OF JOHN L. Phipps, Charles Paul Phipps, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips, for the arrest, &c., of James K. Place, pursuant to the provisions of an act entitled "An act to abolish imprisonment for debt, and to punish fraudulent debtors," passed April 26, 1831.

764 *Inventory of the property and estate of the above named James K. Place.*

	Amount.
Four lots of land known as Nos. 132 and 134 Front street, and Nos. 87 and 89 Pine street, with one building covering the whole of said four lots, the whole worth $125,000, subject to a mortgage of $41,000, to the executors of Jacob Giraud, deceased, and to a mortgage for $79,000 to Jane C. Place, and to taxes and assessments for about $2,000	$3,000 00
Five shares of Sparkman, Place & King, a corporation, of the par value of $100	500 00
467 shares of stock of the Place Sugar Refinery, of the par value of $100—worthless.	
75 shares Union Sugar Co., of the par value of $100—worthless.	
25 acres of land at Binghampton, Broome County, New York, worth $5,200, subject to a mortgage for $2,326	2,874 00

560 acres of land at Saginaw, in the State of Michigan, belonging to J. K. & E. B. Place, in which James K. Place has an interest of three-eighths, worth $8 an acre, full value $4,480⅜		1,680 00
Three-eighths of the following mortgages on lands at Saginaw, Michigan, which mortgages belong to J. K. & E. B. Place, now being in the possession of Gaylord & Hanchett, Saginaw City, Michigan, the particulars of which cannot be given:		
Mortgage of—		
Anthony Schmidt	$532 00	
Michael Leidlem	1,600 00	
John Kneffner	500 00	
John J. Schnell	800 00	
Christian Waltz	1,000 00	
John Kopka	600 00	
John Limburg and Charles Golderf	426 00	
	$5,458 00	2,046 75
765 Promissory note of George Nichols, indorsed by McElvaine & Young, dated February 16, 1857, payable four months after date, for $488.56, which note belongs to J. K. & E. B. Place, which is now in suit pending in the court of appeals from a judgment of the court of common pleas, against the right of recovery by James K. and E. B. Place. Worthless.		
One gray horse		750 00
		$10,850 75
The interest of the said James K. Place in the firm of James K. Place & Co., of which he is a member, the assignment made by said firm and said James K. Place, individually, to Lewis W. Burritt, j'r, and Thomas T. Sheffield, for the benefit of creditors. Worth nothing.		

JA'S K. PLACE.

Account of creditors of said James K. Place.

Name.	Amount.
Simon De Visser	$3 03
Van Zandt Brothers	4 61
E. Levering & Co	7 70
Benjamin Berry	84 62
William M. Hoyt & Co.	188 70
William Heffernan	229 19
George Wells, j'r	2,500 00
Peter Schersten	2,550 00
Miller, Greiner & Co.	4,966 67
John M. Smith's Son & Co.	2,968 69
Henry D. Van Orden	7,500 00
Alfred Arone	105 00
Susan A. Place	9,039 00
Jane C. Place	53,518 00
Robert Reade	10,361 24
O. W. F. Randolph	66,985 28
Joseph S. Barker	24,589 28
John Bartram	11,524 52

	Heineman & Payson	47,509 95
766	Henry Eyre	$105,129 50
	Weston and Gray	93,042 18
	Manufacturers' National Bank	72,494 50
	Ephraim B. Place	50,000 00
	Butchers and Drovers' Bank	15,000 00
	Newark Banking Company	5,000 00
	H. Blydenbugh	10,000 00
	First National Bank	20,000 00
	Second National Bank	5,000 00
	Merchants' Bank	5,000 00
	Merchants' Exchange National Bank	5,000 00
	American Exchange National Bank	4,682 50
	Goodridge and Walker	5,000 00
	Spence, Montague & Co	10,000 00
	William Agnew & Son	5,000 00
	Fourth National Bank	22,625 00
	Atlantic Mutual Insurance Company	24,798 74
	Place, Trigg & Co	493 12
	John Caswell & Co	68,859 00
	Maitland, Phelps & Co	66,656 22
	W. J. McCahan & Co	22 00
	Reed, Murdock & Fisher	112 67
	R. Ten Broeck and Thomas A. Silkman	1,000 00
	R. Ten Broeck	917 58
	D. J. and Z. S. Ely & Co	3,361 73
	Bunge, Burlage & Co	583 40
	A. S. Anderson	32,849 00
	Hackett and Henderson	1 62
	Warren, Beebe & Co	2 85
	Carew & Haydon	3 18
	Joseph H. Wilson	3 34
	W. H. Blair	3 39
	J. H. Recknagle	3 80
	Edwards and Holmes	3 82
	J. S. Barrett & Co	5 25
	Green and Wattles	4 80
	Benjamin Squires	6 98
	Young and Knapp	8 09
	Barcelo Vatable & Bro's	6 27
	Allen and McDonald	6 55
	G. W. Pritchard	6 32
	W. H. Riley	7 92
	W. G. Ray & Co	12 23
	Morris & Sherman	13 60
	R. H. Leatham	18 54
	Pierson & Beebe	11 97
767	Cleveland, Case & Co	38 98
	Foote and Lewis	17 00
	R. D. Case & Co	14 13
	John Bailey & Co	29 22
	Osborn and Bates	25 38
	J. & J. R. Montgomery	63 62
	M. Canfield	23 78
	H. H. Lemcke	63 57
	Dymond and Lally	24 68
	Sheffield & Child	16 61

A. G. Hildreth & Co	39 83
H. W. Small & Co	17 31
Linton and Grieve	45 85
George S. Scott	186 56
Otis W. Booth & Co	135 59
Olendorf, Case & Co	330 46
Abraham Wyckoff	392 11
William Scott & Sons	441 03
Thomas T. Sheffield	1,500 00
New York Gas-Light Company	35 95
Wetmore, Cryder & Co	352 76
Philip Livingstone	165 74
E. Johnson & Co	63 00
Aymar & Co	67 79
Howland & Aspinwall	195 65
A. Legget & Son	33 30
S. W. Roberts	28 00
R. Parker	48 60
Pine, Wright & Twiggs	219 15
Fountain and Churchill	164 37
Sackett & Mackay	159 36
N. F. Bryant	94 44
Metropolitan National Bank	22,585 57
National Bank of Commerce	35,775 99
Bank of America	2,709 95
Daniel Trowbridge	1,347 64
William Morgan	491 71
National Park Bank	28,623 34
American Exchange National Bank	12,921 95
First National Bank	17,121 70
William Endall	13,804 07
Fourth National Bank	25,000 00
Manufacturers' National Bank	20,000 00
Spence, Montague & Co	62,657 35
William F. Weld & Co	Amount not known.
C. P. Fischer & Co	92,450 17
768 Thomas J. Owen	$70,656 51
Metropolitan National Bank	196,182 44
The National Park Bank	16,000 00
Brown, Brothers & Co	Amount not known.
New York agency of the Bank of British North America	Amount not known.
Duncan, Sherman & Co	Amount not known.
J. L. Phipps & Co	117,000 00
Dabney, Morgan & Co	Amount not known.
Bunge, Burlage & Co	Amount not known.
Simon de Visser	Amount not known.

The above are the creditors of James K. Place & Co., of which firm said James K. Place is a member.

Rufus Park	2,326 00
J. P. Giraud, j'r, executor	41,400 00
Jane C. Place	78,600 00
Jane C. Place	75,000 00
Susan A. Place	25,000 00
E. L. Roberts	5,600 00

The above are the individual creditors of the said James K. Place.

JA'S K. PLACE.

STATE OF NEW YORK.
City and County of New York, ss:

James K. Place, above named, being duly sworn, doth depose and say that the above account of my creditors and inventory of my estate are in all respects just and true, and truly state all my estate and property, and all of my creditors.

JA'S K. PLACE.

Sworn to before me this 25th day of January, 1868.
FRANCIS B. ANTZ,
Notary Public, N. Y. County.

Whereas John Lewis Phipps, Charles Paul Phipps, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips, made complaint and application before me, the subscriber, one of the justices of the supreme court of the State of New York, residing in the city and county of New York, representing that they have a claim against James K. Place and James D. Sparkman
769 for which they have brought an action in the said supreme court of the State of New York, which is a court of record, and that said action is now pending for the sum of one hundred and seventeen thousand dollars, and interest from November 23d, 1867, justly due and owing from the said James K. Place and James D. Sparkman to the said applicants, and that the said James K. Place has assigned or disposed of some of his property with the intent to defraud his creditors, and that the defendants aforesaid fraudulently contracted the debt respecting which said suit was brought, and that for said debt, according to the provisions of the act entitled "An act to abolish imprisonment for debt and to punish fraudulent debtors," passed April 26, 1831, the said James K. Place cannot be arrested or imprisoned, and produced before me affidavits in support of said allegations which to me were satisfactory.

Whereupon, in pursuance of the said act, I issued my warrant to the sheriff of the city and county of New York for the arrest of said James K. Place, and he was by said sheriff arrested and brought before me at the city hall, in the city of New York, on the 16th day of December, 1867, when and where I proceeded to hear the parties, and then and there, on application of the defendant, adjourned the said hearing to the 17th day of December, 1867, at the same place, when and where I further heard the said parties, and the said defendant controverted the facts and circumstances on which said warrant was issued, and verified his allegations by his own affidavit; and I then and there, on the application of the defendant, adjourned the said hearing to the 18th day of December, 1867, at the same place, when and where I further heard the said parties; and on the application of the defendant adjourned the said hearing to the 19th day of December, 1867, at the same place, when and where I further heard the parties; and adjourned the said hearing to the 20th day of December, 1867, at the same place, when and where I further heard the said parties; and adjourned the said hearing to the 21st day of December, 1867, at the same place, when and where I further heard the said parties; and adjourned the said hearing to the 23d day of December, 1867, at the same place, when and where I further heard the said parties; and on application of the defendant further adjourned the said hearing to the 24th day of December, 1867, at the same place, when
770–780 and where I further heard the said parties; and on application of the defendant further adjourned the said hearing to the

26th day of December, 1867, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 27th day of December, 1867, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 30th day of December, 1867, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 2d day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 4th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant I further adjourned the said hearing to the 6th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant adjourned the said hearing to the 8th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant adjourned the said hearing to the 10th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant adjourned the said hearing to the 11th day of January, 1868, at the same place, when and where I further heard the said parties; and on application of the defendant adjourned the said hearing to the 13th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant adjourned the said hearing to the 15th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant adjourned the said hearing to the 17th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant adjourned the said hearing to the 20th day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant adjourned the said hearing to the 22d day of January, 1868, at the same place, when and where I further heard the parties; and on application of the defendant adjourned the said hearing to the 24th day of January, 1868, at the same place, when
781 and where I further heard the parties; and on application of the defendant adjourned the said hearing to the 25th day of January, 1868, at the same place, when and where I further heard the parties; and on the said hearing on this 25th day of January, 1868, the parties aforesaid being present before me, and I having duly heard and considered all the proofs and allegations of the parties, and I was satisfied, and did, and do hereby determine and decide that the allegations of the said complainants, that the said James K. Place has assigned or disposed of some of his property, with intent to defraud his creditors, were substantiated, and did declare my decision to the said James K. Place, that he, the said James K. Place, has assigned or disposed of some of his property, with intent to defraud his creditors; wherefore the said James K. Place offered to deliver to me an inventory of his estate and an account of his creditors, and execute an assignment of his property, pursuant to the provisions of the statute in such case made and provided, and the said James K. Place, having made and delivered to me an inventory of his estate, and an account of his creditors, and I not having been made satisfied that the proceedings on the part of the said James K. Place are not just and fair, and I having ordered an assignment to be made by the said James K. Place of all his property and estate, except such articles as are by law exempt from execution, to Henry J. Cullen, j'r, of the city of Brooklyn, Kings County, the assignee appointed by me, to whom such assignment shall be made, and proof having been made to

me that said assignment has been recorded in the office of the clerk of the city and county of New York, which is the proper county in which the same should be recorded, and the certificate of said assignee, duly executed according to law, that all the property of the said James K. Place, specified in said inventory, has been delivered to said assignee:

Now, therefore, I, the said George G. Barnard, a justice of the supreme court of the State of New York, pursuant to the statute in such case made and provided, and the authority conferred on me by law, do hereby discharge the said James K. Place from imprisonment under and by virtue of the said warrant, and under and by virtue of any of the proceedings had before me, and hereinbefore set forth, and do hereby grant unto him, the said James K. Place, a discharge, which shall exonerate
782 him from being proceeded against by any of his creditors entitled to a dividend of the estate of the said James K. Place, as provided in and by an act entitled "An act to abolish imprisonment for debt, and to punish fraudulent debtors," passed April 26, 1831, under the 3d, 4th, 5th, 6th, 7th, 8th, and 9th sections of said act, for any fraud committed or intended, before such discharge.

In testimony whereof, I have hereunto set my hand at the city of New York, this twenty-seventh day of January, in the year one thousand eight hundred and sixty-eight.

GEORGE G. BARNARD, *J. S. C.*

(Endorsed:) Filed and recorded April 11, 1868, 12 h. 50 m.

All which we have caused by these presents to be exemplified, and the seal of our said supreme court to be hereunto annexed.

Witness, Albert Cardozo, justice, at the city of New York, the 12th day of December, in the year of our Lord one thousand eight hundred and sixty-eight, of our Independence the ninety-third.

CHA'S E. LOEW, *Clerk.*

I, Albert Cardozo, presiding justice of the supreme court of the State of New York, for the city and county of New York, do hereby certify that Charles E. Loew, whose name is subscribed to the preceding exemplification, is the clerk of the said county of New York, and clerk of said supreme court for said county, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal of our supreme court, and that the attestation thereof is in due form.

Dated New York, December 12th, 1868.

ALBERT CARDOZO,
Justice N. Y. Supreme Court, presiding.

STATE OF NEW YORK,
City and County of New York, ss:

I, Charles E. Loew, clerk of the supreme court of said State, in and for the city and county of New York, do hereby certify that Albert Cardozo, whose name is subscribed to the preceding certificate, is presiding justice of the supreme court of said State in and for the
783 city and county of New York, duly elected and sworn, and that the signature of said justice to said certificate is genuine.

In testimony whereof I have hereto set my hand and affixed the seal of said court this 12th day of December, 1868.

[L. S.] CHA'S E. LOEW, *Clerk.*

HENRY J. CULLEN, J'r, sworn for plaintiff, deposes and says:

Q. 1. In November and December, 1867, and January, 1868, what was your profession, and with or by what firm were you connected or employed?

A. I was an attorney at law, and was employed with the firm of Foster & Thomson, assisting in the business of their office.

Q. 2. Had you anything to do, and, if so, state what you had to do, with the prosecution of certain proceedings before the honorable George G. Barnard, one of the justices of the supreme court of the State of New York, against J. K. Place, on behalf of J. L. Phipps & Co., under the so-called "Stilwell act"?

A. I had not prior to my appointment as assignee in the proceeding referred to.

Q. 3. Are you the person named in the order and decision in said proceedings as the assignee of James K. Place?

A. Yes.

Q. 4. Do you know Edward E. Goodrich; and, if so, how long have you known him, and where does he reside?

A. I do not know him personally, and do not know where he resides.

Q. 5. State particularly and in detail what property, if any, came into your possession as assignee in said Stillwell proceedings, and whether, if any thereof came into your possession, you delivered any, and what part thereof, to Susan A. Place or James K. Place, or Lewis W. Burritt, j'r, or Thomas T. Sheffield, or any of them.

A. The property assigned consisted substantially of interests not susceptible of physical delivery, and I considered myself, by virtue of
784 the delivery to me of the assignment, as vested with the ownership of the property. There was an inventory with the assignment, and, by virtue of the general words of assignment to me of all his property, I considered myself as vested with all the property and interests of Place. I never delivered any part of the said property to Susan A. Place, or James K. Place, or Lewis W. Burritt, j'r, or Thomas T. Sheffield, or any of them.

Q. 6. What became of the gray horse mentioned in the inventory under said assignment? Did you ever receive possession whereof; and, if so, did not you deliver possession of the same to James K. Place, or Susan A. Place, or Lewis W. Burritt, j'r, or Thomas T. Sheffield, and which of them?

A. I do not know what became of the horse. I never received physical possession thereof. I never delivered possession of him to anybody.

HENRY J. CULLEN, J'R.

Subscribed and sworn to before me this 27th June, 1870.

R. E. STILWELL,
Special Examiner, &c.

JOHN W. CROSS, sworn and examined as a witness for plaintiff, deposes and says as follows:

My firm is Dennistoun & Co., foreign bankers, 22 Exchange Place. I have been a member of that firm since the 1st of January, 1865. I do not, nor did I, know M'r's Susan A. Place. I never paid James K. Place any money, nor did I ever pay Susan A. Place any money. Nothing of value ever passed from me to Susan A. Place, directly, that I know of. Nothing of value ever passed from me directly to James K. Place. I never gave anybody any money or property or anything of value to be

delivered for me to James K. Place that I am aware of. I never gave anybody anything of value, money or property, to be delivered for me to Susan A. Place that I am aware of. I never in any manner or
785 form sent any money or property, or anything of value, to either Susan A. Place or James K. Place that I am aware of. I never received from the hands of Susan A. Place or James K. Place any bond or mortgage or other security—I mean I did not receive from either of them in person. I was asked by Mess'rs Phipps & Co., or by M'r Gostenhofer, in their behalf and as their agent, to receive a mortgage, to have a mortgage stand in my name, or by Foster & Thomson, attorneys. I was asked by them to allow a mortgage to be made to me in trust for them; that is the whole transaction. The mortgage I was asked to take is a mortgage by M'r's Susan A. Place on a house and lot on 5th avenue, which I subsequently assigned to Gostenhofer for Phipps & Co.

Q. 1. Which member of the firm of J. L. Phipps & Co. asked you to take this mortgage?

A. M'r Gostenhofer. I never collected any money or interest or anything on that bond or mortgage.

J. W. CROSS.

Subscribed and sworn to before me this 13th May, 1870.

R. E. STILWELL,
Special Examiner, &c.

NICHOLAS P. BERNARD, sworn and examined by plaintiffs' counsel, and testified as follows:

I did not personally attend a sheriff's sale in May of June, 1868. I authorized Foster & Thomson to do so for me; I authorized them to be there. I did not personally receive any certificate from the sheriff or his deputy. Foster & Thomson did for me. Foster & Thomson are my employers. They are attorneys and counsellors-at-law. I have been in their employment some four or five years. I did not personally see the sheriff's certificate; I left it with Foster & Thomson. I did not pay any money to the sheriff, but Foster & Thomson did for me.
786 I have not signed any paper relating to the property, excepting an assignment to the receiver.

NICHOLAS P. BERNARD.

Sworn to before me this 12th day of May, 1870.

R. E. STILWELL,
Special Examiner, &c.

CHARLES H. SMITH, sworn as a witness for plaintiff, testifies and says as follows:

In the year 1867 I was assistant of Bernard Reilly, deputy sheriff of the city and county of New York. He was deputy of John Kelly, the head sheriff of the city and county of New York.

Q. 1. Had you anything to do with the execution of process against James K. Place and James D. Sparkman?

A. Yes, sir.

Q. 2. Have you that process?

A. I have the original one; there are two that are mislaid, or lost, that we cannot find.

Q. 3. Will you produce those you have?

A. There is an attachment and execution on the attachment.

(Witness produces warrant of attachment issued under sections 229 and 232 of the code of procedure of the State of New York, and it is consented that the following abstract of the same may have the same force and effect as the original, the defendants reserving the same objections thereto which they might make to the original if produced; either party to have the right to produce the original on the hearing. An attachment reciting an application to the justice signing the warrant of John Lewis Phipps, Charles Paul Phipps, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gostenhofer, and Arthur Edward Phillips, for an attachment against the property of James K. Place, one of the defendants in an action pending in the supreme court, &c., and thereupon commanding the sheriff that he attach and safely keep all the property of said James K. Place within said
787 sheriff's county, or so much thereof as might be sufficient to satisfy the plaintiffs' demand of $117,000. Attachment signed by the honorable George G. Barnard, justice of the supreme court, dated November 26th, 1867; Foster & Thomson, plaintiff's attorneys. Endorsed, received November 26th, 1867.)

Witness says that on November 26th he served a copy of the attachment upon James K. Place, at the corner of Pine and Front streets, and also on Charles Place, as one of the stockholders of the Place Sugar Refinery. On the 27th of November, 1867, he served a copy on the cashier of the Park Bank, and also on the vice-president of the Bank of Commerce, and also on the vice-president of the Manufacturers' Bank, and also on the cashier of the Metropolitan Bank; and on December 19th, he served a copy on Sturgis, Arnold & Co.; and on the 24th served a copy on Heineman and Payson, and on the cashier of the Metropolitan Bank, and on the secretary of the Metropolitan Fire-Insurance Company; and on December 28th, 1867, he served a copy on Tho's T. Sheffield; and on January 8th, 1868, he served a copy on O. B. Booth and on R. S. Place, and also served other persons.

I received my keeping and service fees on the 10th of February, 1868. I took possession of all the property that was at Pine and Front streets. It was supposed to be Place & Sparkman's store. We found them in possession.

Witness also produced an original execution, in the words and figures following:

"The people of the State of New York to John Kelly, late sheriff of the city and county of New York, greeting:

"Whereas judgment was rendered on the 27th day of February, 1868, in an action in the supreme court of the city and county of New York, between John Lewis Phipps, Charles Paul Phipps, William Turner Holworthy, Barlow Fletcher Allen, Charles Thomas Gosten-
788 hofer, and Arthur Edward Phillips, plaintiffs, and James K. Place and James D. Sparkman, defendants, in favor of said plaintiffs against the said defendants, for the sum of one hundred and sixteen thousand two hundred and fifty-one dollars and forty-four cents, as appears to us by the judgment-roll filed in the office of the clerk of the city and county of New York; and whereas the said judgment was docketed in your county on the 27th day of February, 1868, and the sum of $116,251.41, with interest thereon from the 27th day of February, 1868, is now actually due thereon; therefore, we command you that you satisfy the said judgment out of the personal property of the said judgment-debtors within your county, or if sufficient personal property cannot be found, then out of the real property in your county belonging

to such judgment-debtors on the day when the said judgment was so docketed in your county, or at any time thereafter, in whose hands soever the same may be, and return this execution within sixty days.

"Witness Hon. George G. Barnard, justice, at the city of New York, the 28th day of February, 1868.

"CHARLES E. LOEW, *Clerk.*

"FOSTER & THOMSON,
"*Plaintiffs' Attorneys, 69 Wall street, N. Y.*"

(Endorsed:)

"Levy out of the joint property of all the defendants, and the separate property of the defendants James K. Place and James D. Sparkman, within your county, $116,251.44, with interest from February 27th, 1868, besides your fees, &c.

"FOSTER & THOMSON,
"*Plaintiffs' Attorneys.*

"Received April 7th, 1868, 1.30 p. m."

(It is consented that the above copy may have the same force
789 and effect as the original, the defendants reserving the same objections thereto which they might make to the original if produced, either party to have the right to produce the original on the hearing.)

The plaintiff offers in evidence the following receipt endorsed on said execution:

"Received $24,801$\frac{68}{100}$ on account of within execution.

"FOSTER & THOMSON,
"*Plaintiffs' Attorneys.*"

Q. 4. What had you to do with the execution, if anything?

A. My impression is that I sold that property; I am not positive; or M'r Reilly sold the property, and I was by at the time it was sold in the vestibule of the city hall.

Q. 5. What property?

A. Some real estate. It was sold in two lots, situated in 5th avenue. I have a description of the property at the office as it was advertised. I remember one parcel brought $15,000, and one parcel brought $10,000; and it amounted to $25,000 altogether. I was personally at the sale. I can't tell who paid the proceeds of the sale, for I didn't receive the money. I don't know. M'r Reilly took that receipt which is endorsed on the back of that. I did not personally receive any money. We filed one certificate of sale in the county clerk's office, and delivered one to Foster & Thomson.

Q. 6. Had you any other process between November 20th, 1867, and February 28th, 1868, against Place and Sparkman?

A. I think we had two attachments that are mislaid or lost. I know one of the plaintiffs was Randolph, and the other I am not positive about. I think I had no other executions; not against Place & Sparkman. We had several against the other Places, but not against James K. Place. That is my impression. That is the only one we ever saw against Place & Sparkman.

CHARLES H. SMITH,
288 *Madison street.*

Subscribed and sworn to before me this 11th May, 1870.

R. E. STILWELL,
Special Examiner, &c.

790 CHARLES T. GOSTENHOFER sworn for plaintiff, examined by plaintiffs' counsel, deposes and says: I was a member of the firm of J. L. Phipps & Co. in January, 1868, and prior to that time for fifteen years; that firm had mercantile transactions with James K. P'ace & Co. in 1867, under written contract; as I understand it, the result of those transactions in November, 1867, was that J. K. Place & Co. owed us a considerable sum of money, viz, about $117,000.

Q. 1. Had you any vouchers for that?

A. They had been supplied with a cargo of coffee, the possession of which was intrusted to them, under a storage receipt given by that firm for the same, as follows:

NEW YORK, 30*th Oct.*, 1867.

Received from Mess'rs J. L. Phipps & Co., of New York, the merchandzie specified in the bill of lading, per Naiad, from Rio de Janeiro, viz:

P A	1,000	Four thousand five hundred bags of coffee.
A B	1,000	
P C	1,000	
P D	1,000	
P F	500	

In consideration of which we agree to hold the same on storage as their property (with liberty to sell the same and to account for the proceeds to them) until the bills of exchange drawn on Mess'rs Phipps & Co., of Liverpool, for the purchase-money of the said goods, shall have been remitted for by us, or satisfactorily provided for by us, and to keep said property insured against fire, and free from incumbrance; the intention of this undertaking being to protect and preserve unimpaired the lien of Mess'rs J. L. Phipps & Co. on the said property.

(Signed) JA'S K. PLACE & CO.

[10-cent stamp.]

In the fall of 1867 I had an interview with M'r Place at his store on the subject of that indebtedness. I saw him at his store on the subject of that indebtedness, to the best of my memory, once, and alone.

791 I asked M'r Place whether he was prepared to give us some security, to which he answered "No." I think he then told me he was going to stop payment. I can't say what date it was, but it was the day before. The day afterwards I learned that he stopped payment. I believe nothing was said about any property on Fifth avenue. I had had previous interviews with him on the same subject of getting security. At the previous interview in my office, a week sooner, I asked him for security, and I remember he told me that he would try to get something. My belief is he held out hopes of a mortgage on a house in Fifth avenue. I don't now remember his saying anything definitely about it.

Q. 7. Have you in your possession a mortgage or any other paper affecting that house? and, if so, produce it.

Witness, at the request of plaintiffs' counsel, produced a bond dated January 23d, 1868, made by Susan A. Place and James K. Place, jointly and severally, to John W. Cross, in a penalty of $140,000, conditioned for the payment of $70,000 on or before January 23d, 1870, with interest at 7 per cent. per annum, payable semi-annually, and interest-clause 30 days. Also a mortgage by Susan A. Place and James K. Place to John W. Cross, dated January 23d, 1868, reciting a lease by the trustees of Columbia College to Francis B. Wallace, dated February 1st, 1864, leasing to said Wallace the premises hereinafter described for a term of 21 years from February 1st, 1864, at an annual rent of $550, and reciting an assignment of said lease by Francis B. Wallace to James K. Place, by assignment dated June 21st, 1865; and reciting an assignment by

James K. Place to Alexander H. Wallis, by deed dated November 30, 1865; and reciting an assignment to Alexander H. Wallis to Susan A. Place, by assignment dated Dec. 1st, 1865; reciting also three several leases by Robert J. Livingston and Louisa, his wife, dated March, 1865—two to Ja's K. Place and one to Ja's D. Sparkman for 21 years from May 1st, 1865, and reciting an assignment by said
792 Sparkman to said Place; and also an assignment by said Place to Alexander H. Wallis, by deed dated August 1st, 1867, and by said Alexander H. Wallis to Susan A. Place, by deed dated August 24th, 1867; and then reciting the said bond above mentioned, and thereupon mortgaging to John W. Cross, as security for such bond, the premises commencing on the northwest corner of 5th avenue and 47th street, being about one hundred feet in depth and twenty-five feet in width, subject to a prior mortgage for $30,000; and mortgaging, also, as further security, the three lots mentioned in Livingston's leases, being on the southerly side of West 43d street, 100 feet 5 inches in depth by 62 feet 5 inches in width, which mortgage was acknowledged the 23d day of January, 1868, recorded in the office of the register of the city and county of New York, in liber 831 of mortgages, page 278, at 12.35 p. m., January 25, 1868. A copy of said mortgage is hereto annexed and marked "Exhibit Q."

Witness also produced an assignment of said mortgage, executed by John W. Cross, of the first part, to Charles T. Gostenhofer, dated the 25th January, 1868, acknowledged February 7, 1868—consideration, $1—assigning the above-recited bonds and mortgage and assignment, also a chattel-mortgage upon furniture in the dwelling-house corner of Forty-seventh street and Fifth avenue, such chattel-mortgage bearing date January 23d, 1868, being additional security for said bond, such assignment not having been recorded. (It is consented that the foregoing abstract of the papers produced by witness shall have the same power and effect as the originals on the hearing.) Witness testifies that under an order of this court, in this cause, said papers had been transferred and delivered by him to James Thomson, esq., as a receiver in this cause, and are now produced by him by permission of such receiver.

Q. S. Will you state what consideration you furnished for that assignment, or for that bond and mortgage?

A. We made a transfer of our claim against James K. Place & Co. We delivered it to Mr. Thomson, of the firm of Foster & Thomson,
793 with general authority as of counsel to us. I don't remember whether I authorized him to pass it over to anybody else specially. He had the general authority to do so. I received a further consideration, namely, $2,000. That $2,000 came in in February from Foster & Thomson. I can't say whether it was subsequent or prior to the assignment from Cross, which I produced. We have received some interest on the bond and mortgage. Besides the bond and mortgage, and the $2,000, and the interest which we have received, we have also received, as a further consideration for the transfer of our claim against James K. Place & Co. a chattel-mortgage securing the same bond, being the chattel-mortgage above mentioned, and of which a copy is annexed, marked "Exhibit R." We have not executed any assignment of any judgment which was recovered February 17th, 1868, in the names of our firm, against James K. Place & Co.

CHA'S T. GOSTENHOFER.

Subscribed and sworn to before me this 13th May, 1870.

R. E. STILWELL,
Special Examiner.

On being cross-examined witness testifies:

On the failure of Place & Co., I put our claim against them in hands of our attorneys, Foster & Thomson, for prosecution, instructing them to use all possible means to collect it. Acting under the advice of Foster & Thomson, I commenced an action in the name of our firm against Place & Co., and M'r Place was arrested and taken before Judge Barnard under a Stilwell warrant. This was in November, 1867. The proceedings continued before Judge Barnard through November and December and a part of January, 1868. There was a sharp contest. Judge Pierrepont with Foster & Thomson were our counsel. While those proceedings were pending an application was made to buy our claim. This came to me through M'r Thomson. I agreed to the terms and left the details with M'r Thomson. The matter was finally closed by him. I, in the name of our firm, executed a transfer of all our claims against Place & Co., and received in payment therefor the securities
794 I have produced on my direct examination. The purchaser's name was Goodrich. I did not see J. K. Place in the transaction. I supposed M'r's Place was the owner of the Fifth avenue property, and that her mortgage was good. I meant to sell our claim out and out, and the agreement and understanding was that the purchaser should stand in the shoes of Phipps & Co., and hold and enforce, as far as they might be able, whatever rights or liens they had or had acquired by their proceedings under the Stillwell act or otherwise. The purchaser, I understood, was to be at liberty to continue the case to judgment in our name, if he wished.

CHA'S T. GOSTENHOFER.

Subscribed and sworn to before me this 13th October, 1870.

R. E. STILWELL,
Special Examiner.

EXHIBIT 64.

Mortgage on 5th avenue property.

This indenture, made the twenty-third day of January, in the year one thousand eight hundred and sixty-eight, between Susan A. Place, wife of James K. Place, of the city of New York, and the said James K. Place, parties of the first part, and John W. Cross, of the city of New York, party of the second part.

Whereas the trustees of Columbia College, of the city of New York, did, by an indenture of lease, bearing date the first day of February, in the year one thousand eight hundred and sixty-four, demise, lease, and to farm let, unto Francis B. Wallace, and his executors, administrators, and assigns, all and singular the premises first hereinafter mentioned and described, together with their appurtenances: to hold the same unto the said Francis B. Wallace, and to his executors, administrators and assigns for the term of twenty-one years from the first day of February, one thousand eight hundred and sixty-four, yielding and paying therefor unto the said the trustees of Columbia College, of the city of New York, and its successors and assign' the yearly rent or sum of five hundred and fifty dollars, which said indenture of lease is recorded in the register's office of the city and county of New York, in liber 929 of conveyances, page 611, the 19th day of September, 1865; and which said in-
795 denture of lease was duly assigned by the said Francis B. Wallace to James K. Place by deed of assignment bearing date the twenty-first day of June, in the year 1865, and recorded in said regis-

ter's office, in liber 929 of conveyances, page 618, the 19th day of September, 1865, and was further assigned by the said James K. Place to Alexander H. Wallis, by deed of assignment bearing date 30th day of November, 1865, and recorded in said register's office, in liber 973 of conveyances, page 208, April 18, 1866, and was further assigned by said Alexander H. Wallis to Susan A. Place by deed of assignment bearing date the first day of December, in the year 1865, and recorded in said register's office in liber 973 of conveyances, page 311, April 18, 1866. And whereas Robert J. Livingston and Louisa M., his wife, did, by two several indentures of lease, severally bearing date the 20th day of March in the year 1865, demise, lease, and to farm let, unto James K. Place, and to his executors, administrators, and assigns, two certain lots of land forming part of the premises secondly hereinafter described, together with their appurtenances: to hold the same unto the said James K. Place, his executors, administrators, and assigns, for the term of twenty-one years from the first day of May, in the year 1865, giving and paying therefor unto the said Robert J. Livingston and Louisa M., his wife, or to their heirs or assigns, the yearly rent or sum of three hundred dollars, which said several indentures of lease are recorded in said register's office in liber 935 of conveyances pages 547 and 552, the 14th day of September, in the year 1865. And whereas the said Robert J. Livingston and Louisa M., his wife, did, by indenture of lease, bearing date the twentieth day of March, in the year 1865, demise, lease, and to farm let, unto James D. Sparkman, and to his executors, administrators, and assigns, a certain lot of land forming part of the premises secondly hereinafter described, together with its appurtenances: to hold the same unto the said James D. Sparkman, his executors, administrators, and assigns, for the term of twenty-one years from the first day of May, in the year 1865, and paying therefor unto the said Robert J. Livingston and Louisa M., his wife, their heirs or assigns, the yearly rent or sum of three hundred dollars, which said last-mentioned indenture of lease is recorded in said register's office, in liber 935 of
796 conveyances, page 537, the 14th day of September, 1865, and was assigned by the said James D. Sparkman to James K. Place by deed of assignment bearing date the 25th day of October, in the year 1866, and recorded in said register's office, in liber 990 of conveyances, page 391, November 2, 1866. And whereas the three last-mentioned indentures of lease were assigned by the said James K. Place to Alexander H. Wallis, by deed of assignment bearing date the first day of August, in the year 1867, and recorded in said register's office in liber 1022 of conveyances, page 381, August 20, 1867; and by the said Alexander H. Wallis assigned to Susan A. Place, by deed of assignment bearing date the twenty-fourth day of August, in the year 1867, and recorded in said register's office in liber 1024 of conveyances, page 522, October 1st, 1867.

And whereas the said parties of the first part are justly indebted to the said party of the second part in the sum of seventy thousand dollars, lawful money of the United States of America, secured to be paid by their certain bond, bearing even date with these presents, in the penal sum of one hundred and fifty thousand dollars, lawful money as aforesaid, conditioned for the payment of the first-mentioned sum of seventy thousand dollars, on or before the twenty-third day of January, which will be in the year one thousand eight hundred and seventy, and interest thereon, at and after the rate of seven per cent. per annum, to be computed from the day of the date thereof, and to be paid semi-annually on the twenty-third day of July and January, in each and every year,

until the whole principal sum shall be paid, which said bond also contains an agreement that should any default be made in the payment of the said interest or any part thereof, on any day whereon the same is made payable, as above expressed, and should the same remain unpaid and in arrear for the space of thirty days, that then, and from thenceforth, that is to say, after the lapse of thirty days, the aforesaid principal sum of seventy thousand dollars, with all arrears of interest thereon, shall, at the option of the said party of the second part, or his legal representatives, become and be due and payable immediately thereafter, although the time limited for the payment thereof may not then have expired, anything in the said bond contained to the contrary thereof in anywise notwithstanding, as by the said bond or obligation and
797 the condition thereof, reference being thereunto had, may more fully appear.

Now, this indenture witnesseth that the said parties of the first part, for the better securing the payment of the said sum of money mentioned in the condition of the said bond or obligation, with interest thereon according to the true intent and meaning thereof, and also for and in consideration of the sum of one dollar, to them in hand paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold, assigned, transferred, and set over, and by these presents do grant, bargain, sell, assign, transfer, and set over unto the said party of the second part all the following-described lands and premises: first, all that certain lot of land situated, lying, and being in the nineteenth ward of the city of New York, designated by the number 49 (forty-nine) on a map of certain lands of the trustees of Columbia College, entitled map of lands in the city of New York belonging to the trustees of Columbia College in the city of New York, made by John J. Serrell, city surveyor, dated January, 1859, filed in the office of the register of the city of New York, numbered 611, and recorded in the same office on the second day of June, 1859, in liber 782 of conveyances, page 623, a duplicate whereof is in the possession of the said Columbia College, the said lots being bounded and described as follows, to wit: Commencing at the corner formed by the intersection of the westerly side of Fifth avenue with the northerly side of Forty-seventh street; thence running westerly along the northerly side of Forty-seventh street ninety-two feet; thence northwesterly along an arc of ninety degrees of a circle, the centre of which shall be a point distant eight feet northerly from the northerly side of Forty-seventh street, and distant ninety-two feet from the westerly side of Fifth avenue; thence northerly parallel with Fifth avenue seventeen feet five inches; thence easterly parallel with Forty-seventh street one hundred feet to the Fifth avenue, and thence southerly along the westerly side of the Fifth avenue twenty-five feet five inches, to the place of beginning; subject, nevertheless, to a prior mortgage on said premises, to secure the payment of thirty thousand dollars and interest. Second, all those three certain lots, pieces, and parcels of land situate, lying, and being on the southerly side of
798 Forty-third street, in the city of New York, which taken together are bounded and described as follows, to wit: Beginning at a point on the southerly side of Forty-third street which is distant one hundred twenty-five feet westerly from the southwesterly corner of Forty-third street and the Fifth avenue, and running thence southerly and parallel with the said avenue one hundred feet five inches to the centre of the block; thence westerly and parallel with said street, sixty-two feet six inches; thence northerly and parallel with said avenue, one hundred

feet five inches to the southerly side of Forty-third street, and thence easterly along the southerly line of said Forty-third street sixty-two feet six inches to the place of beginning; subject, nevertheless, to an agreement between James K. Place and James D. Sparkman, bearing date the twenty-sixth day of October, in the year 1866, for an alley-way over a part of the most westerly of the said three lots of land above described, said alley-way being nine feet in width, and one-half of the same being taken from the westerly side of the westerly lot; together with all and singular the edifices, buildings, rights, members, privileges, and appurtenances thereunto belonging or in anywise appertaining, and also all the estate, right, title, interest, term of years yet to come and unexpired, property, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part of, in, and to the said demised premises, and every part and parcel thereof, with the appurtenances, and also the said indenture of lease, and every clause, article, and condition therein expressed and contained; to have and to hold the said indenture of lease, and other hereby granted premises, unto the said party of the second part, his executors, administrators, and assigns, to his and their only proper use, benefit, and behoof, for and during all the rest, residue, and remainder of the said term of years yet to come and unexpired, for the terms of any renewal and renewals of the said indentures, or either of them: subject, nevertheless, to the rents, covenants, conditions, and provisos in the said indentures of lease mentioned: Provided always, and these presents are upon this express condition, that if the said parties of the first part shall well and truly pay unto the said party of the second part the said sum of money mentioned in the condition of the said bond or obligation, and the interest thereon,
799 at the time and in the manner mentioned in the said condition, according to the true intent and meaning thereof, that then and from thenceforth these presents, and the estate hereby granted, shall cease, determine, and be utterly null and void, anything hereinbefore contained to the contrary in any wise notwithstanding. And the said parties of the first part do hereby covenant, grant, promise, and agree to and with the said party of the second part that they will well and truly pay unto the said party of the second part the said sum of money mentioned in the condition of the said bond or obligation, and the interest thereon, according to the condition of the said bond or obligation; and that the said premises hereby conveyed now are free and clear of all incumbrances whatsoever, except as aforesaid, and that they have good right and lawful authority to convey the same in manner and form hereby conveyed; and if default shall be made in the payment of the said sum of money above mentioned, or in the interest that shall accrue thereon, or of any part of either, that then and from thenceforth it shall be lawful for the said party of the second part and his assigns to sell, transfer, and set over all the rest, residue, and remainder of the said term of years then yet to come, and all other the right, title, and interest of the said parties of the first part, of, in, and to the same, at public auction, according to the act in such case made and provided; and as the attorney of the said parties of the first part, for that purpose by these presents duly authorized, constituted, and appointed, to make, seal, execute, and deliver to the purchaser or purchasers thereof a good and sufficient assignment, transfer, or other conveyance in the law, for the same premises with the appurtenances, and out of the money arising from such sale to retain the principal and interest which shall then be due on the said bond or obligation, together with the costs and charges of advertisement and sale of the same premises, rendering the

overplus of the purchase-money (if any there shall be) unto the said parties of the first part or their assigns; which sale so to be made shall be a perpetual bar, both in law and equity, against the said parties of the first part, and against all persons claiming or to claim the premises, or any part thereof, by, from, or under them, or any of them.

And it is further expressly agreed by and between the parties to these presents that the said parties of the first part shall and will keep
800 the buildings erected and to be erected upon the lands above conveyed insured against loss and damage by fire, by insurers in an amount approved by the said party of the second part, and assign the policy and certificates thereof to the said party of the second part, and in default thereof it shall be lawful for the said party of the second part to effect such insurance, and the premium and premiums paid for effecting the same shall be a lien on the said mortgaged premises added to the amount of the said bond or obligation, and secured by these presents, payable on demand, with interest at the rate of seven per cent. per annum.

In witness whereof the said parties of the first part have hereunto set their hands and seals the day and year above written.

SUSAN A. PLACE. [L. S.]
JA'S K. PLACE. [L. S.]

Sealed and delivered in the presence of—
JAMES J. CAMPBELL.

STATE OF NEW YORK,
City and County of New York, ss:

On this twenty-third day of January, in the year 1868, before me personally came James K. Place and Susan A. Place, his wife, severally known to me to be the same persons described in and who executed the foregoing instrument, and severally acknowledged that they executed the same. And the said Susan A. Place, on a private examination by me made separate and apart from her husband, acknowledged that she executed the same freely and without any fear or compulsion of or from her said husband.

JAMES J. CAMPBELL,
Notary Public, N. Y. County.

I hereby certify that there are attached to the bond for seventy thousand dollars, to secure which this mortgage and a chattel-mortgage bearing even date herewith are executed, stamps to the amount of seventy dollars duly cancelled in the presence of the register of the city and county of New York.

CHARLES G. HALPINE,
Register.

Recorded the preceding at the request of Foster & Thomson, January 25th, 1868, at 12 o'clock and 35 minutes p. m.

CHARLES G. HALPINE,
Register.

801 OFFICE OF THE REGISTER OF DEEDS, &C.,
City and County of New York, ss:

I have compared the annexed copy with an instrument recorded in this office on the 25th day of January, A. D. 1868, at 12 o'clock 35 min-

p. m., in liber 831 of mort., page 278, and certify the same to be a correct transcript therefrom and the whole of said instrument.

In testimony whereof I have hereunto subscribed my name and affixed my official seal this 3d day of December, 1868.

[L. S.] PATRICK H. JONES,
Register.

EXHIBIT 65.

Chattel mortgage to John W. Cross.

To all to whom these presents shall come:

Know ye that we, Susan A. Place, wife of James K. Place, of the city of New York, and the said James K. Place, of the first part, for securing the payment of the money hereinafter mentioned, and in consideration of the sum of one dollar to us duly paid by John W. Cross, of the said city of New York, of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have bargained and sold, and by these presents do grant, bargain, and sell, unto the said party of the second part, all the household furniture, and all other goods and chattels mentioned in the schedule hereunto annexed, and now in the dwelling-house situated in the city of New York, on the northwest corner of Fifth avenue and Forty-seventh street, to have and to hold all and singular the goods and chattels above bargained and sold, or intended so to be, unto the said party of the second part, his executors, administrators, and assigns, forever. And we, the said parties of the first part, for our and each of our heirs, executors, and administrators, all and singular the said goods and chattels above bargained and sold unto the said party of the second part, his heirs, executors, administrators, and assigns, against us, the said parties of the first part, and against all and every person or persons whomsoever, shall and will warrant and forever defend. Upon condition that if we, the said parties of the first part, shall and do well and truly pay unto
the said party of the second part, his executors, administrators,
802 or assigns, the just and full sum of seventy thousand dollars, with interest, according to the condition of our certain bond bearing even date with these presents, conditioned for the payment of the sum of seventy thousand dollars, ($70,000,) with interest, on or before the twenty-third day of January, in the year one thousand eight hundred and seventy, said interest to be paid semi-annually, then these presents shall be void. And we, the said parties of the first part, for ourselves, our and each of our executors, administrators, and assigns, do covenant and agree to and with the said party of the second part, his executors, administrators, and assigns, that in case default shall be made in the payment of the said sum above mentioned, then it shall and may be lawful for, and we, the said parties of the first part, do hereby authorize and empower the said party of the second part, his executors, administrators, and assigns, with the aid and assistance of any person or persons, to enter our dwelling-house, store, and other premises, and such other place or places as the said goods and chattels are or may be placed, and take and carry away the said goods and chattels, and to sell and dispose of the same for the best price they can obtain; and out of the money arising therefrom to retain and pay the said sum above mentioned, and all charges touching the same, rendering the overplus (if any) unto Susan A. Place, or to her executors, administrators, or assigns. And until default be made in the payment of the said sum of money,

we are to remain and continue in the quiet and peaceable possession of the said goods and chattels, and the full and free enjoyment of the same.

In witness whereof we, the said parties of the first part, have hereunto set our hands and seals the twenty-third day of January, one thousand eight hundred and sixty-eight.

SUSAN A. PLACE. [L. S.]
JA'S K. PLACE. [L. S.]

Sealed and delivered in the presence of—
JAMES J. CAMPBELL.

STATE OF NEW YORK,
City and County of New York, ss:

On this twenty-third day of January, in the year 1868, before me, personally came James K. Place and Susan A. Place, his wife, severally known to me to be the same persons described in and who exe-
803 cuted the foregoing instrument, and severally acknowledged that they executed the same. And the said Susan A. Place, on a private examination by me made separate and apart from her said husband, acknowledged that she executed the same freely and without any fear or compulsion of or from her said husband.

JAMES J. CAMPBELL,
Notary Public, N. Y. County.

Schedule referred to.

Carpets, mats, and oil-cloths throughout the house, a chandelier in drawing-room, and brackets, ditto library, a chandelier and brackets, drawing-room, gas-fixtures throughout the house.

DRAWING-ROOM.—One amaranth ebony and gilt wall-mirror, three ditto cornices, one pier-frame to match, and glass with base; one amaranth ebony and gilt cabinet; one Egyptian sofa with slip covers; two Egyptian arm-chairs with slip covers; three Egyptian chairs, slip covers; two gilt recepti n-chairs; three sets blue silk curtains; three pair tambour lace curtains; six porcelain curtain-holders*t*.

LIBRARY.—Two French walnut book-cases; one French eight-legged library-table; two ladies' brunday chairs; two crinoline arm-chairs; two stuffed-backed chairs; one cornice for bay-window; three side curtains in gray reps; one set drill loose covers.

DINING-ROOM.—One walnut and gilt cabinet and buffet; one walnut extension-table; eight walnut shield chairs; two walnut arm-chairs, one cornice for bay-window; two side curtains and one curtain of drapery in tapestry; three pairs lace curtains; one clock to fit on mantel; four walnut and gilt curtain-holders; one set linen loose covers.

FRONT CHAMBER.—One rich maple and rosewood bedstead; one rich maple and rosewood bureau a*d*d glass; one rich maple and rosewood table and deep drawer; one rich maple large easy chair in blue reps; three rich maple cornices and brackets; one rich maple cornice*s* for small room; eight rich maple curtain-holders; four set blue wool reps curtains; four sets lace curtains; blue chintz loose covers; one spring-mattras'; one hair mattras'; one bolster, and two pillows.

BACK CHAMBER.—One rosewood bedstead; one rosewood bureau and glass; one rosewood commode; one rosewood sewing-table; three rosewood gilt cornices; one walnut gilt cornice*s*, bath-room; six rose-
804 wood gilt curtain-holders; three sets crimson reps curtains; three sets lace reps curtains; one best spring-mattrass; one best hair-mattras'; one bolster and two pillows.

DRESSING-ROOM.—One rosewood dressing-glass, one rosewood and gilt cornice for bay window, two rep side-curtains, one centre draping reps, three sets lace curtains, four rosewood and gilt curtain-holders.

HALL.—One walnut and oak hall-mirror, 57 white holland shades.

THIRD STORY FRONT.—One walnut bedstead, one bureau-glass, walnut; one lounge in reps, walnut; two excelsior chairs, walnut; one rocking-chair, walnut; one table circular drawer, walnut; one walnut arm-chair in reps, one hair mattrass, one spring mattrass, one pair of pillows and bolster.

THIRD STORY BACK.—Three imitation rosewood excelsior chairs in reps, one imitation rosewood excelsior chair in reps, three birch chairs.

FOURTH STORY.—Bedstead, chairs, and bureau in servants' room.

SUSAN A. PLACE.
JAMES K. PLACE.

Strawberries, by Lilly Spencer; Waterhouse, by Butler; Game, by LaCroix; Lake Lucerne, by Butler; Bread and Tears, Indian; Onions, LaCroix; Flowers, LaCroix; Selling Chickens, ———; Interior of Stable, L. Van Keyck; Landscape and Cattle, Bressot; Trees in Blossom, LaCroix; Camels, Treu; Bull Dog, Hays; Ox-Cart, Otto Webfer; Nahant, Hazletine; Flowers, LaCroix; The Madonna; Garibaldi Soldier taking leave of his Mother; Dick Peak, Adirondacks, W. F. Richards; Sheep, Robb; Musical Soul, Urdman; Love's Position, Stand; Widow of an Officer killed at Solferino, Corolas; Happy Thoughts, Schlesinger; Interior S't Paul at Antwerp, Greenaerts; Playing Papa; Musical Lesson, G. Priva; Calvary, Wy. Dette; Huntsman and Dogs; Madame LeBrune; Angel of Annunciation; News from the War, Induries; Cupid; Voyage of Life, 4 pieces, engravings; five small pictures.

SUSAN A. PLACE.
JAMES K. PLACE.

805 JAMES THOMSON, sworn for plaintiff, deposes and says:

I am acting as receiver in this cause under an order made about the 3d day of October, 1868, and as such I received from the parties to this suit, pursuant to that order, assignments of their various interests in the premises at the northwest corner of Fifth avenue and Forty-seventh streets, and the furniture therein. Pursuant to that order, I made a conveyance of those premises and the furniture, or some portion thereof, to M'r's Jay Gould, and received a consideration therefor, and the net amount now remaining in my hands out of such sale is about $80,000; a mortgage to John W. Cross, made by Susan A. Place and James K. Place in the month of January, 1868, on the said real estate, and also a mortgage on said furniture, made by the same parties to the said John W. Cross, at the same time, together with the bond referred to in said mortgage, came into my possession as receiver; the first time I saw such mortgages and the bonds secured thereby was about the 25th January, 1868; they were in my possession for John W. Cross, and I think that I have handed them to him, or exhibited them to him, after delivery and execution. They were given to him as agent for Phipps & Co., the consideration being considered as moving from them. I received the bond and mortgages from the hands of M'r Alexander H. Wallis. When giving them to me, I considered that he was acting as the agent for the purchaser of the claim of Phipps & Co. against J. K. Place & Co.; by purchaser I mean M'r E. E. Goodrich; I don't know his residence; I never saw him. In November, 1867, the firm of J. L. Phipps & Co. consisted of John L. Phipps, Charles T.

Gostenhofer, William T. Holworthy, B. F. Allen, and Arthur E. Phillips. My firm of Foster & Thomson were their attorneys in an action at law in the supreme court, and also in proceedings under the "Act to abolish imprisonment for debt, and to punish fraudulent debtors." I believe I was aware of what was done under
806 the processes issued against J. K. Place and James D. Sparkman under these actions; I understood that the sheriff, under the process of attachment issued to him, served notices and undertook to seize property. I think he made attempts to seize or did seize their books of account, but I was not with the sheriff's officers during that performance of their duties; I was not out of my office on the matter, and anything I might say here about it might be hearsay. Mess'rs Marsh, Coe & Wallis (including Alexander H. Wallis) appeared for J. K. Place & Co. in those proceedings as their attorneys and counsellors. I do not know when, if ever, Alexander H. Wallis ceased to act as one of their attorneys and counsel. I believe that Marsh, Coe & Wallis, up to the time of the recovery of the judgment in the suit of Phipps & Co., were the attorneys of record for the defendants; as to M'r Wallis's personal acts I cannot say; I was present in court during the prosecution of proceedings under the Stilwell warrants; some of the books of account of J. K. Place & Co. were produced in the course of those proceedings by, I think, the assignees, Sheffield and Burritt. M'r Burritt was sworn as a witness, and he produced some of the books; I cannot say positively as to what particular account his attention was called to. If I remember rightly, the basis upon which the warrant was obtained in these Stilwell proceedings was an allegation to the effect that James K. Place had disposed of some of his property with intent to defraud his creditors in regard to a building in Front street, (I think at the corner of Front and Pine.) We attempted to prove it, and we undertook to prove it, in regard to that property. I think there is an official record, duly filed, of the proceedings in that case, but I don't know of any official record of the testimony.

Q. 1. Do you remember whether or not in these proceedings it became an enquiry which you pursued as to whether or not James K. Place & Co. were insolvent at the end of 1866?

A. I can't now remember in regard to dates. I think that one
807 subject of enquiry was as to the period during which, prior to their failure, the house had been insolvent. The production of the books was insisted upon, but the object of such production was not limited. I do not now remember whether the portion of the books showing the assets and debts in a collected form was read in evidence. I did not personally prepare the notice of lis pendens filed in that suit, though I presume it emanated from our office. I don't know who furnished the description of property to be inserted in that lis pendens. It was for greater caution that the notice of lis pendens described the property at the corner of Fifth avenue and Forty-seventh street as being affected by the attachment which had issued in that suit. I knew there was such property, and that M'r and M'r's Place lived in it. I think it was before the trial in that suit brought by Phipps & Co. that I received the bond and mortgages. After the delivery of the bond and mortgages, the proceedings in that suit on the part of the plaintiffs were conducted, as I understood it, on behalf of the transferee. I personally attended on the trial; I was not present at the sheriff's sale. Some one from our office it was who made the bid or bids upon which the sheriff's certificates were founded, but I am not sure what individual. I don't think that I personally gave any instructions about it. There was no money in fact

received by the plaintiffs in that suit from that sale. The receipt of money was acknowledged on the back of the execution; receipts passed, as I understand it, but no money. A receipt was given on the execution for the amount of the bid, less the sheriff's fees; that is as I understand it, but I never have seen these papers.

Q. 2. Did you in your own mind identify the person who was to receive the proceeds of such sale if such proceeds had been paid in money?

A. I cannot now give the operations of my mind at that time.

Q. 3. Knowing, as you did, what happened as to the giving of the mortgages, and as to the delivery of the transfer to Goodrich, and as to the suit having been prosecuted in the name of Phipps after the
808 giving of these mortgages for the benefit of the transferee, had you any opinion and belief as to the person who was entitled to the proceeds of that sale under execution, if such proceeds had been paid in money?

A. I was not present at the time, and I don't think my mind operated on that subject.

Q. 4. Had you any opinion or belief as to the person for whose benefit the sale was made; as to the real party interested in enforcing the judgment?

A. I consider that all proceedings in that action taking place after the sale and transfer of the claim by Phipps & Co. were in behalf of the purchaser, M'r Goodrich—including the enforcing of the judgment. I was not personally present at the sale, and did not personally conduct the proceedings at the time, and therefore cannot answer the question whether or not it was "for that reason that no money was actually paid on the sale, but that in lieu of such payment, or in satisfaction of the sale, a receipt was given on the execution." Nicholas P. Bernard was my clerk. I did not know, at the time, the amount that had been bid at that time in his name. I do not know whether or not I learned it before the receipt was signed on the execution.

Q. 5. Why did not you collect the money that had been bid?

A. The amount was receipted, as I understood, upon the execution.

Q. 6. Why, instead of receipting it there, did you not collect the money; or, in other words, why was a receipt on the execution sufficient for the purposes of those whom you represented?

A. I was not present at the transaction, and did not personally direct it at the time.

Q. 7. Is there any reason why you have not made any endeavor to collect that money, but, instead, had acknowledged the receipt of it without receiving it?

A. I cannot assign any special reason. I was not the purchaser, neither was my firm of Foster & Thomson the purchasers. The purchaser was Nicholas P. Bernard.

Q. 8. By signing the receipt, then, on the execution, you and your firm did not expect or intend to become personally responsible for the amount of money receipted for?

A. I did not sign the receipt. I was not personally present
809 and I didn't have any expectations at the time. I did not know about the signing of the receipt at the time.

Q. 9. When you did know about it, did you or not approve of it?

A. I never did anything about it.

Q. 10. Did you ever disavow or disapprove it?

A. I never did anything about it. I cannot say that I personally have ever had possession of the certificates of sale, nor can I say that I have

ever personally seen them. I have never endeavored to obtain possession of them.

Cross-examined by counsel for Phipps & Co.:

At no time during the proceedings against Place & Co. did I believe that there was any intention on the part of that firm to take the benefit of the bankrupt act; in none of the negotiations which took place between M'r Wallis and myself did I consider that on the part of Phipps & Co. I was entering into any arrangement for the benefit of J. K. Place or J. K. Place & Co.; I thought that the firm of Phipps & Co. had, by means of the different proceedings we had instituted, placed themselves in a position which would in all probability result in the collection of their claim; I especially relied on the Stilwell proceedings; I was aware that the firm of Place & Co. had made a general assignment pending the Stilwell proceedings, but I considered that if Phipps & Co. were successful in convicting Place in the Stilwell proceedings, we would be entitled to precedence; I supposed, however, there might be an expensive litigation over it, and I made up my mind to advise my clients to make some sacrifice, should they get an opportunity of realizing the bulk of their claim; when M'r Wallis commenced the negotiations to purchase Phipps's claim, I did not inquire for whom he acted, nor did he tell me, nor did I know who it was until the papers were being exchanged; Wallis and I agreed on the sale and transfer of the claim and I received the mortgages and bond, and simultaneously delivered over the transfer to Goodrich, executed by Phipps & Co. The consideration of those mortgages and bond was the transfer of
810 the claim of Phipps & Co., with any attendant liens and advantages, whatever they might be; no proceeding we had at that time against Place was commenced or pressed upon the ground of any fraudulent disposition of his property, except as respects a store in Front street; in making the transaction I acted entirely without connivance or collusion with J. K. Place or Susan A. Place; I never saw either of them in the negotiation; M'r Wallis professed to represent the purchaser, and I believed that he did; I ascertained, before I took the mortgages, that M'r's Place had the legal title to the property; the agreement was that as M'r Goodrich had purchased the claim of Phipps & Co., he had a right to stand in their position and to be entitled to the benefit of any advantage, if any, they might have acquired by their proceedings; and as that was the understanding, I felt bound to carry it out, and my firm accordingly, for the benefit of M'r Goodrich, took what subsequent proceedings were taken; M'r Goodrich, as assignee of the claims of Phipps & Co., was the party interested in the perfecting and entry of judgment and in the sale under the execution; so far as the sheriff's sale was concerned, the only party interested therein, or for whom I considered our firm acted, was M'r Goodrich, the purchaser; the sale of the claim against J. K. Place & Co. was made to M'r Goodrich in good faith, and with the full understanding that Phipps & Co. gave up their claim upon J. K. Place & Co., and looked only for payment of the bond secured by the mortgages.

Redirect examination:

Q. 1. How long before January 23, 1868, did your negotiations with M'r Wallis, referred to in your cross-examination, commence? State, according to the best of your recollection, the number of days, weeks, or months, and state whether you have any means of refreshing your memory on that point, and if you have refreshed it by the use of such means.

811 A. Some little time before; but I am not able to state the number of days. The negotiations did not cover months or weeks, to the best of my recollection; and I cannot remember the number of days. I have no means of refreshing my memory upon the point.

Q. 2. In prosecuting the Stilwell proceedings, after the giving of the bond and mortgages to John W. Cross, under whose instructions or directions did you act, and in what manner and by what means did you ascertain the wishes of M'r Goodrich?

A. To the best of my recollection, the Stilwell proceedings were not prosecuted after the giving of the bond and mortgages, except as to the execution and delivery of the assignment to M'r Cullen. So far as I may have acted in that matter, it was under no special instructions or directions from anybody.

Q. 3. In the prosecution of the Stilwell proceedings, after the giving of the bond and mortgages to John W. Cross, what attorney and counsel, if any, represented James K. Place as defendant in those proceedings?

A. As I have already stated, the Stilwell proceedings, to the best of my recollection, came to an end by the conviction of Place at or about the time of the giving of the bond and mortgages; but throughout the whole proceedings, from beginning to end, the attorneys representing Place were Marsh, Coe, and Wallis, and the counsel was Luther R. Marsh.

Q. 4. In prosecuting the Phipps suit in the supreme court, after the giving of the bond and mortgages to John W. Cross, under whose instructions or directions did you act, and in what manner and by what means did you ascertain the wishes of M'r Goodrich?

A. In prosecuting the Phipps suit in the supreme court, after the giving of the bond and mortgages, I considered that I was forwarding, to the best of my judgment, the interests of the assignee of the claim, M'r Goodrich, and I do not remember receiving any special instructions or directions in his behalf or as to his wishes in the matter.

Q. 5. In the proceedings in the supreme court in the Phipps suit, after the giving of the bond and mortgage to John W. Cross, what attorneys and counsel represented and acted for James K. Place
812 and James D. Sparkman? In those proceedings for whom did M'r Wallis act and for whom did you act?

A. Mess'rs Marsh, Coe & Wallis represented and acted for Place & Sparkman, M'r Wallis being one of the firm. My firm acted in behalf of the purchaser of the claim, considering him represented on the record by Phipps & Co.

Q. 6. In issuing execution on the judgment which was recovered in the Phipps suit, under whose instructions or directions did you act, and in what manner and by what means did you ascertain the wishes of M'r Goodrich?

A. My answer to this interrogatory is the same as to the interrogatory before last.

Q. 7. Do you mean to be understood as testifying that you believed or understood M'r Goodrich to be acting for his own benefit or for the benefit of some other, and what, person?

A. I do not mean to be understood as testifying that I believed or understood M'r Goodrich as acting otherwise than for his own benefit. No other suggestion was made to me.

Q. 8. Was or was not M'r Goodrich represented in his negotiations with you by the same attorney who represented James K. Place in the

suit and proceedings in favor of Phipps & Co. against James K. Place? And if you say by a different attorney, name such different attorney.

A. He was represented by M'r Wallis. His firm of Marsh, Coe & Wallis represented Place in the suits and proceedings.

Q. 9. In the Stilwell proceedings and in the supreme court, after the giving of the bond and mortgages to John W. Cross, who was your employer or client?

A. As far as I had an employer or client, I consider that he was the assignee of the claim.

Q. 10. When you say that you ascertained that the legal title to the 5th avenue property was in M'r's Place, state fully and precisely what means you took to ascertain who had the legal title, and how you ascertained that the legal title was in her.

A. I cannot now recollect positively, but my best recollection is that I had caused an examination of the records to be made.

Q. 11. Did you, on January 23rd, 1868, believe that the 5th 813, 814 avenue property had not been paid for out of the funds of J. K. Place & Co.?

A. On the 23rd January, 1868, I believed that before J. K. Place & Co. became insolvent J. K. Place had drawn out of the firm, money which was paid on the 5th avenue property.

Q. 12. Did you, on January 23rd, 1868, believe that the 5th avenue property had not been built on or improved out of the funds of J. K. Place and Co.?

A. On the 23rd January, 1868, I believed that J. K. Place, before the firm became insolvent, had on his own account, as a partner, drawn out money, which was used to build on or improve the 5th avenue property.

Q. 13. As you had, on or before January 23rd, 1868, ascertained that the legal title to the property was in Susan A. Place, state the reasons which induced you, under an execution against James K. Place and James D. Sparkman, to cause their interest in the property mortgaged to Cross to be sold by the sheriff.

A. I had no reason, except out of abundant caution.

Q. 14. Do you mean to be understood as testifying that you considered that if Phipps and Co. were successful in convicting Place in the Stilwell proceedings, they would be entitled to precedence over Burritt & Sheffield as to the joint property of Place & Sparkman?

A. I considered that if Phipps and Co. were successful in convicting Place in the Stilwell proceedings, they would be entitled to precedence over any disposition of his property or his interest in copartnership property, to Burritt and Sheffield, J. K. Place might have made pending the proceedings.

Q. 15. In the proceedings before Justice Barnard, under the Stilwell act, was James K. Place called and examined as a witness on his own behalf?

A. He was.

Q. 16. In the proceedings under the Stilwell act before Justice Barnard, was Lewis W. Burritt, j'r, sworn and examined as a witness on behalf of J. L. Phipps & Co.?

A. Burritt was, I believe.

JAMES THOMSON.

Subscribed and sworn to before me this 17th June, 1870.

R. E. STILWELL,
Special Examiner.

815 ARTHUR T. SULLIVAN, sworn for plaintiff, and examined by plaintiff's counsel:

Q. 1. Are you acting as the executor of the will of M'r's Susan A. Place?

A. Yes, sir.

Q. 2. Is any one acting with you?

A. Yes, sir.

Q. 3. Who?

A. Barker Place.

Q. 4. As executor have you come into the possession of any certicates of stock of the corporation called Sparkman, Place & King?

A. No, sir.

Q. 5. Have you looked for any such certificates, or taken any means for obtaining them?

A. No, sir.

Q. 6. Have you come into the possession of any evidences of title to lands in 43d street?

A. No, sir.

Q. 7. Have you come into the possession of any household furniture or real estate of any description as executor?

A. No, sir.

Q. 8. Have you come into the possession of any money as such executor?

A. No, sir.

Q. 9. Have you come into possession of any bond and mortgage?

A. No, sir.

Q. 10. Was there any bond and mortgage belonging to the estate of Susan A. Place?

A. I don't know.

Q. 11. Have you had any information upon that subject?

A. You ask me whether there is any bond and mortgage on any piece of property belonging to her?

Q. 12. No. Whether there is any bond and mortgage which constitutes a part of her estate?

A. That I don't know.

Q. 13. Have you had any information on that subject?

A. I don't remember that I had.

Q. 14. What did her estate consist of?

A. That I really don't know.

Q. 15. Have you come into the possession of any books of account belonging to her?

A. No, sir.

Q. 16. Have you any reason to believe that during her life-time she was the owner of any bond and mortgage, or any stock in Sparkman, Place & King, or of any household furniture, or of any real estate of any description?

A. Yes, sir.

Q. 17. What reason have you for a belief on that subject?

A. I had always understood that the house and furniture in 47th street belonged to her.

Q. 18. Have you got that information since her decease?

A. No, sir.

816 Q. 19. Have you, since her decease, received any information which leads you to believe that during her life-time she owned or had an interest in any bond and mortgage, household furniture, real es-

tate or stock in Sparkman, Place & King, beyond or besides the house corner of 47th street and 5th avenue?

A. You asked me a question previously that referred to that same thing.

Q. 20. No. I asked you if you had come into the possession? I ask you now if you have received any information which leads you to believe she had any?

A. No, sir.

Q. 21. Have any Government bonds came into the possession of her executors?

A. Not that I am aware of.

Q. 22. Has any property came into the hands of your co-executor?

A. That I don't know of; I am not certain.

Q. 23. Have you been substituted as plaintiff in any suit which was pending on her behalf at the time she died.

A. What does that relate to? I received a notice here some two or three weeks since, in which I saw my name—I think as plaintiff; I am really ignorant of law; I don't know whether it was plaintiff or defendant.

Q. 24. Are you prosecuting any suit as executor of M'r's Place?

A. That I don't know.

Q. 25. What did M'r's Place's estate consist of?

A. That I don't know.

Q. 26. When she died?

A. I really could not tell you.

Q. 27. Have you her will?

A. I have not.

Q. 28. Have you ever had it?

A. No, sir.

Q. 29. Have you letters testamentary?

A. I don't know what they are; I can't say; no, sir; I think not.

Q. 30. Have you anything to show that you are her executor?

A. No, sir. I qualified.

Q. 31. You said you were acting as her executor. What did you mean by that?

A. I meant to say that I was an executor, and so qualified.

Q. 32. How were you connected with James K. Place and M'r's Place?

A. I am a son-in-law.

Q. 33. Have you come into the possession of any bank-books or certificates of deposit belonging to her?

A. No, sir.

A. T. SULLIVAN.

Adjourned to March 18th, 1870, at 10 o'clock a. m.

MARCH 18TH, 1870.

817 Present, counsel for the respective parties.

The witness appears, and no further questions being put, the deposition is subscribed and sworn to by him before me this 18th day of March, 1870.

R. E. STILWELL,
Special Examiner.

EXHIBIT 66.

Will of M'r's Susan A. Place.

Know all men by these presents that I, Susan A. Place, wife of James

K. Place, of the city and State of New York, have made, published, and declared, and by these presents do make, publish, and declare, my last will and testament, in manner and form following, that is to say: I direct all my just debts and liabilities, funeral and testamentary expenses, to be paid out of my estate; I give, devise, and bequeath all the rest, residue, and remainder of my estate, whether real or personal, of whatsoever kind and wheresoever situated, that I shall be seized, possessed of, or entitled to at the time of my death, to my executors hereinafter named, the survivors and survivor of them, and the successors and successor of said survivor; in trust, nevertheless, and for the uses and purposes following, that is to say, to keep all the rest, residue, and remainder of my said estate, and the proceeds thereof, invested in some safe and profitable manner, retaining any investments made by me in my life-time that their judgment shall approve, and changing any investments made by me in my life-time or by themselves, from time to time, as they may deem most advantageous to those beneficially interested in my estate; to suffer and permit my beloved husband, James K. Place, to occupy as a place for his residence, and for no other purpose, such part of my real estate as he may select as a place for his personal residence, and to put and keep in such personal residence selected by him such of my household furniture and articles of housekeeping as they shall deem necessary for his comfort and convenience; to collect and receive all the rents, issues, and income to be derived
818 from my said estate, and the proceeds thereof, except from such portion thereof as shall be personally occupied as aforesaid by my said husband, and after paying therefrom all charges on my estate and every part thereof for taxes, premiums of insurance, repairs, and other matters and things whatsoever, to use and apply what shall remain of the rents, issues, and income of my said estate and the proceeds thereof to the personal support and comfort of my said husband, James K. Place, for and during his natural life, and upon his death to divide my whole estate and the proceeds thereof among my children or the descendants of my children who shall survive my said husband, in equal portions, share and share alike, as and for their absolute property, the said descendants of my said children to have and take the share or portion his, her, or their parent would have had or taken if then living. I do hereby authorize and empower my said executor to sell and convey the whole or any part of the real estate that I shall be seized, possessed of, or entitled to at the time of my death.

I do hereby nominate, constitute, and appoint my son Barker Place, and my sons-in-law Arthur T. Sullivan and Jedediah K. Hayward, executors of this my last will and testament, hereby revoking and annulling all former and other wills by me made.

In witness whereof I have hereunto set my hand and seal this twenty-fifth day of November, in the year one thousand eight hundred and sixty-eight.

[SEAL.] SUSAN A. PLACE.

Signed, sealed, published, and declared by the said testatrix as and for her last will and testament, in our presence, who at her request, in her presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

A. H. WALLIS,
170 *Broadway, City of New York.*
JAMES J. CAMPBELL,
No. 302 *W.* 55*th Street, N. Y. City.*

I, Susan A. Place, the testatrix above named, as and for a codicil to my last will and testament as above written, do give, devise, and bequeath to my children in equal portions, absolutely, all real estate and interests in real estate that I took or am entitled to by descent from my father, Nathaniel Barker, deceased, and all personal estate, rights, and interests that I was or am entitled to as one of the children and next of kin of said Nathaniel Barker, deceased, subject to a life-estate therein of my mother as now arranged and agreed upon by and between
819 the children of my said father, anything to the contrary of this devise and bequest contained in my said last will and testament to the contrary notwithstanding.

It witness whereof I have hereunto set my hand and seal this twenty-seventh day of November, in the year one thousand eight hundred and sixty-eight.

[SEAL.] SUSAN A. PLACE.

Signed, sealed, published, and declared by the said testatrix as a codicil to her last will and testament as above written, in our presence, who at her request, in her presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

A. H. WALLIS,
170 Broadway, City of New York.
JAMES J. CAMPBELL,
No. 302 W. 55th Street, N. Y. City.

EXHIBIT 59.

Inventory of personal estate of Susan A. Place.

STATE AND COUNTY OF NEW YORK,
Surrogate's Office, ss:

I, Morgan A. Dayton, j'r, clerk to the surrogate's court of said county, do hereby certify that I have compared the hereunto-annexed copy of the inventory in the matter of the personal estate of Susan A. Place, deceased, filed 23d , 1869, with the original record thereof, now remaining in this office, and have found the same to be a correct transcript therefrom, and of the whole of said original record.

In testimony whereof I have hereunto set my hand and affixed the seal of office of said surrogate this 20th day of May, in the year of our Lord one thousand eight hundred and seventy.

MORGAN A. DAYTON, J'R,
Clerk to the Surrogate's Court.

To all persons interested in the estate of Susan A. Place, deceased, as legatees, next of kin, or otherwise, notice is hereby given that the executor of the estate of said deceased, with the aid of appraisers, for that purpose duly appointed by the surrogate of the county of New York, will, on the 15th day of December, at 11 o'clock in the forenoon of that day, at No. 116 Nassau street, room 5, in the city of New York, in said county, proceed to make an inventory and appraisement of all the goods, chattels, and credits of said deceased.

Dated this 5th day of November, 1869.

J. K. HAYWARD,
Proctor for Ex'r.

820 COUNTY OF NEW YORK,
Surrogate's Office, ss:

, executor of the estate of Susan A. Place, deceased, being duly sworn, says that the annexed inventory is in all respects just and true; that it contains a true statement of all the personal property of the said deceased which has come to the knowledge of the deponent, and particularly of all money, bank-bills, and other circulating medium belonging to the said deceased, and of all just claims of the said deceases against these deponents to the best of the knowledge of these deponents.

A. T. SULLIVAN.
BARKER PLACE.

Sworn this 23d day of Dec., 1869, before me.
JAMES A. MORGAN,
Notary Public N. Y. C.

COUNTY OF NEW YORK, *ss:*

I, W'm Tucker, an appraiser, duly appointed by the surrogate of said county, do swear and declare that I will truly, honestly, and im*m*partially appraise the personal property of Susan A. Place, late of the county aforesaid, deceased, which shall be for that purpose delivered to me, to the best of my knowledge and ability.

W'M TUCKER.

Sworn this 9th day of November, 1869, before me.
W'M W. SMITH,
Notary Public.

COUNTY OF NEW YORK, *ss:*

I, J. E. Tucker, an appraiser, duly appointed by the surrogate of said county, do swear and declare that I will truly, honestly, and impartially appraise the personal property of Susan A. Place, late of the county aforesaid, deceased, which shall be for that purpose exhibited to me, to the best of my knowledge and ability.

J. E. TUCKER.

Sworn this 29th day of November, 1869, before me.
W'M W. SMITH,
Notary Public.

821 A true and perfect inventory of all the goods, chattels, and credits which were of Susan A. Place, late of the city of New York, deceased, made by the executors of the estate of said deceased, with the aid and in presence of W'm Tucker and J. E. Tucker, they having been duly appointed and sworn as appraisers; containing a full, just, and true statement of all the personal property of the said deceased which has come to the knowledge of the said executor of said estate, and particularly of all moneys, bank-bills, and other circulating medium belonging to the said deceased, and of all just claims of the said deceased against said executor, and of all bonds, mortgages, notes, and other securities for the payment of money belonging to the said deceased, specifying the name of the debtor in each security, the date, the sum originally payable, the indorsements thereon, and the sum which, in the judgment of the appraisers, may be collect*a*ble on such security.

Upon the completion of this inventory, duplicates thereof have been made and signed at the end thereof by the appraisers.

Inventory and appraisement of the personal estate of Susan A. Place, deceased.

A claim against J. K. Place & Co. for $9,000, appraised nominal value and shares capital stock of the Sparkman, Place & King Manufacturing Co. of the city of New York, par value.....	$30,000	
Appraised value, nominal		
Household furniture, &c., &c., appraised at.....	2,000	2,000 00
A bond and mortgage for $25,000, made by J. K. & E. B. Place and six others, received for same $12,000; appraised at.....		$12,000 00
Interest in 16 paintings appraised at.....		500 00
Total appraised value		$14,500 00

WM TUCKER,
J. E. TUCKER,
Appraisers.

NEW YORK, *December 23d*, 1869.

[U. S. int. rev. stamp, 5 cents, cancelled.]

822 WILLIAM H. GIBSON, sworn for plaintiff' and being examined by plaintiffs' counsel, testifies:

My present occupation is that of a broker in merchandize, tea, sugar, and coffee; I was connected in business with James K. Place and James D. Sparkman as a clerk, from 1854 to 1867; in 1868, James K. Place and myself formed a copartnership, under the name of Place, Gibson & Co.; we did business at 134 Front street as merchandize brokers: that firm had no money capital; I know Lewis W. Burritt, j'r, and Thomas T. Sheffield; we had dealings as brokers with them; selling merchandize for them—merchandize that they represented as assigeees, I presume, in the matter of James K. Place & Co.; I personally and through brokers had dealings with Burritt and Sheffield; I bought merchandize from them; I bought for others and in my own name—for William H. Gibson.

Q. 1. Who was your principal?

A. We sold some to Rufus Story & Co.; when I bought goods of Burritt and Sheffield I acted as broker; one of our principals, when we bought goods as brokers from Burritt and Sheffield, was one Rufus Story & Co.; if we bought any goods for Rufus Story & Co., they were the principals; we kept books showing our transactions; they are, I presume, at 132 Front street; they are there in the hands of James K. Place, representative of the firm of Place, Gibson & Co.; when I bought these goods of Burritt and Sheffield I was acting as a member of the firm of Place, Gibson & Co.; Burritt and Sheffield knew that; they delivered the bills to the parties that bought the goods, I presume, as far as I knew they did; I presume part of it is paid, I don't know; I have means of ascertaining whether I have paid Burritt and Sheffield anything, from my books; they are at 132 Front street; I call them my books because they belong to me; I have access to them; I presume I can produce them under subpœna; my transactions with Burritt and Sheffield are entered on the day-book of William H. Gibson; they may be entered on the cash-book—payments would be; I do not know anything upon the subject of $500 gold being paid to John Sedgwick; the subject has never been mentioned in my hearing before I was enquired of concerning it on

this examination; a bill of spices was bought of Burritt & Sheffield by William H. Gibson; it is part paid for; how much is paid for I
823 don't know; I have understood that it was a part paid for; I understood that it was part paid for from James K. Place; he told me that some money had been paid on account; I don't know how much; he did not tell me to whom it had been paid; I don't know anything about being sued; I do not know how suits are commenced; I know about that purchase of spices from Burritt & Sheffield—that there was a bill of spices bought; the value of it, as near as I recollect, was some $3,000 in gold; the best of my recollection is that the purchase was made in the spring of 1868—I think in the spring or summer; I did not personally make the purchase; I had not a partner in that purchase; the purchase was made on my own individual account through Place, Gibson & Co.; the spices I sold them, I presume, in the usual way; I sold them in the usual way; to whom I don't know; I have books which will show; where they are, I cannot tell you; it was after the 1st of June or 1st of May, 1868; I think there was 849 bags of African ginger at the price of $8,676.67, gold; that was subject to duty and custom-house penalty. I think $4,522.82 was the whole amount of duty and penalty. There were also ten bags of sweepings of ginger embraced in that purchase. I think I received a bill for it; where the bill is I don't know; I can only presume; the last I saw of it was after the purchase; some time after the purchase. I saw it in my office. I have got some papers home and some at my present office. My checks, probably, are where the other papers are; that is, at the old office, 134 Front street, in the custody of whoever is there now; I could not say who. I left them there when I left the office; I didn't leave them in anybody's custody; there were three or four parties in possession of the premises when I left them—occupying the same office. M'r Sheffield was one, M'r James K. Place was another. I think there was another tenant in there—I don't know who it was—on the first floor. M'r Sheffield and James K. Place were occupying the premises. M'r Sheffield had an office separate. I left my papers there in these premises, open to access of those two persons—to anybody that had a mind to come there. I left a check-book there. I have not any receipts for anything paid on account of that purchase. I abandoned the papers, and where they are gone to I don't know. There is a book in which was made an entry of this purchase—the day-book. I don't know in whose possession that is. I saw
824 it in my office at 109 Wall street—my present office—three months ago; it is not there now; I don't know where it is. I sent it back to 134 Front street, to whoever the boy got it of when he went after it. My present recollection is, that I did buy merchandise consisting of 849 bags of African ginger, and 10 bags of sweepings, which were subject to duty and penalty. I had no idea of the gross amount; I only had an idea of the amount that was to be paid on the ginger, which I presume was $3,000 gold to the party that we bought of, namely, Sheffield. When I speak of buying it, I mean myself. My impression is, that the amount I was to pay Burritt & Sheffield was $3,000; the amount I was to pay Burritt & Sheffield was fixed by the amount of the bill as rendered, which on examination proved correct, and went through the usual course of bills. I received the bill, I think; I do not know of anything wrong about the bill that was rendered, and it was entered on my day-book as a correct charge against me. I think it was bought at cash or 30 days. I got possession of it. I know that we got possession of it, and delivered it; I think it was delivered to Rufus Story & Co. They paid cash, I think, by check.

Cross-examined by J. K. Hayward, esq.:

Q. 1. Do I understand you to say that Place, Gibson & Co. made no purchases of Burritt & Sheffield of goods formerly belonging to J. K. Place & Co. for themselves as principals?

A. Yes, sir.

Q. 2. Did said firm of brokers negotiate more than one purchase of Burritt & Sheffield for William H. Gibson, individually?

A. I don't recollect that they did.

Q. 3. Has the firm of Place, Gibson & Co. been dissolved?

A. It has.

Q. 4. Did they make any money in their said business?

A. No, sir.

WM H. GIBSON.

Subscribed and sworn to before me this 26th May, 1870.

R. E. STILWELL,
Special Examiner, &c.

Date.	Drawer.	Drawee.	Amount.	Payee.	Endorser.	Annexed to deposition of—
1865, Sept. 18	J. K. & E. B. Place	Metropolitan Bank	$4,500 00	John A. Livingston	J. A. Livingston & F. B. Wallace.	F. B. Wallace.
1865, Dec. 29	J. K. Place & Co., by L. W. Burritt, j'r, att'y	Manufacturers' B'nk	116 00	Man & Parsons	Man & Parsons & A. P. Man. W. Man, att'y.	William Man.
1865, Nov. 2	J. K. & E. B. Place, by L. W. Burritt, j'r, att'y	Metropolitan Bank	275 00	G. M. Ogden, trea'r	G. M. Ogden, trea'r	G. M. Ogden.
1866, April 30	J. K. Place & Co., by L. W. Burritt, j'r, att'y	Bank of Commerce	275 00	"	"	"
1866, Oct. 27	"	Manufacturers' B'nk	275 00	"	"	"
1867, April 30	"	Metropolitan Bank	275 00	"	"	"
" Oct. 30	"	Park Bank	275 00	"	"	"
1866, May 7	"	"	450 00	R. J. Livingston	R. J. Livingston	R. J. Livingston.
" Nov. 9	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' B'nk	900 00	"	"	"
1867, April 30	J. K. Place & Co., by L. W. Burritt, j'r, att'y	Metropolitan Bank	900 00	"	"	"
" Nov. 2	"	Bank of Commerce	900 00	"	"	"
1866, April 25	J. K. Place & Co	Park Bank	2,000 00	J. B. Morgan	J. B. Morgan & Cornelius Doyle	Cornelius Doyle.
1866, Nov. 3	J. K. Place & Co., by L. W. Burritt, j'r, att'y	Metropolitan Bank	1,000 00	C. Boyle	C. Boyle, Cornelius Doyle	
1867, May 27	"	Bank of Commerce	435 00	C. Doyle	Cornelius Doyle	"
" March 8	"	Park Bank	1,500 00	John Shuster	John Shuster	John Shuster.
826 1867, Apr. 22	J. K. Place & Co., by L. W. Burritt, j'r, atty	Manufacturers' B'nk	$100 36	John Shuster	John Shuster	John Shuster.
" June 1	J. K. P. & Co., by J. B. Morgan, att'y	"	174 21	H. H. Craigie & Co	H. H. Craigie & Co	John Darcy.
" May 8	"	"	339 58	Architectural Iron Works.	Architectural Iron Works	J. Walter Clark.
1866, Nov. 17	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' B'nk	400 00	J. & P. Garry	J. & P. Garry	Joseph Garry.
1867, Mar. 30	"	"	500 00	"	"	"
" May 11	"	"	1,500 00	"	"	"
" July 6	"	"	57 50	"	"	"
" April 30	"	"	195 50	E. Holmes	E. Holmes	Edwin Holmes.
1865, Nov. 18	J. K. & E. B. Place, by L. W. Burritt, j'r, att'y	"	3,000 00	Anderson & Morgan	Anderson & Morgan, Morgan & Anderson.	James Morgan.
1866, Jan. 31	J. K. Place & Co., by L. W. Burritt, j'r, at'y	North River Bank	1,500 00	Morgan & Anderson	Morgan & Anderson	"
" Feb. 26	"	Manufacturers' B'nk	1,000 00	"	"	"
" Mar. 9	J. K. Place & Co., by L. W. Burritt, j'r, at'y.	Metropolitan Bank	2,000 00	"	"	"
" Mar. 22	J. K. Place & Co., by L. W. Burritt, j'r, at'y.	Manufacturers' B'nk	3,500 00	John B. Morgan	John B. Morgan, and Morgan & Anderson.	"
" April 3	"	North River Bank	2,000 00	Morgan & Anderson	Morgan & Anderson	"
" April 16	"	Metropolitan Bank	3,000 00	"	"	"
" Aug. 28	J. K. Place & Co	Park Bank	1,000 00	"	Morgan & Anderson, and Walter Jones.	"
" Sept. 10	" "	Manufacturers' B'nk	2,500 00	"	Morgan & Anderson	"
" Dec. 28	J. K. Place & Co., by L. W. Burritt, j'r, at'y.	Park Bank	2,000 00	"	"	"
1867, Jan. 19	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' B'nk	1,200 00	"	Morgan & Anderson, and Walter Jones.	"
827 1866, Feb. 17.	J. K. Place & Co., by L. W. Burritt, j'r, att'y.	Manufacturers' B'nk	$500 10	Smith & True	Smith & True	Charles F. True.
" June 30	"	"	3,000 00	"	"	"
" July 24	"	"	2,000 00	"	"	"

Schedule of checks—Continued.

	Date.	Drawer.	Drawee.	Amount.	Payee.	Endorser.	Annexed to deposition of—
	" August 2	"	Park Bank	2,000 00	"	"	"
	" Nov. 6	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' B'nk	3,000 00	"	"	"
	1867, Jan. 5	J. K. Place & Co., by L. W. Burritt, j'r, att'y.	Park Bank	1,000 00	"	"	"
	" Jan. 30	"	Manufacturers' B'nk	2,000 00	"	"	"
	" Mar. 15	J. K. Place & Co., by J. B. Morgan, att'y	"	2,000 00	"	"	"
	" Apr. 24	J. K. Place & Co., by L. W. Burritt, j'r, at'y	Park Bank	1,500 00	"	"	"
	" June 23	"	Manufacturers' B'nk	1,000 00	"	"	"
	" July 5	"	Metropolitan Bank	500 00	"	"	"
	" " 27	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' B'nk	484 66	"	"	"
	" Aug. 2	"	"	377 01	"	"	"
	" April 30	J. K. Place & Co., by L. W. Burritt, j'r, at'y	Bank of Commerce	92 96	P. Puels	P. Puels	Peter Puels.
1	1866, Dec. 18	"	Park Bank	1,700 00	J. E. Macfarland	J. E. Macfarland	J. E. Macfarland.
	1867, Jan. 10	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' B'nk	225 56	J. E. Macfarland	"	"
	1866, Nov. 19	"	"	250 00	C. O. Ficht	C. O. Ficht	C. Otto Ficht.
	" Dec. 1	"	"	300 00	"	"	"
	1867, Jan. 12	J. K. Place & Co., by L. W. Burritt, j'r, at'y	North River Bank	250 00	"	"	"
828	1867, Jan. 26	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' Bank	$700 00	C. O. Ficht	C. O. Ficht	C. Otto Ficht.
	" Feb. 23	"	"	600 00	"	"	"
	" April 27	J. K. Place & Co., by L. W. Burritt, j'r, at'y	Metropolitan Bank	800 00	"	"	"
	" May 20	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' B'nk	517 00	"	"	"
	1866, Aug. 24	J. K. Place & Co	Manufacturers' Bank	239 10	McKenzie & Clanranald.	McKenzie & Clanranald, and Alex. McKenzie & Co.	Martin W. Emmons.
	1867, Apr. 30	J. K. Place & Co., by L. W. Burritt, j'r, attorney.	do	1,000 00	Cox Brothers	Cox Brothers	Henry T. Cox.
	1865, Nov. 20	J. K. & E. B. Place	North River Bank	1,500 00	Walter Jones	Walter Jones	Walter Jones.
	" Dec. 13	do	Metropolitan Bank	1,606 09	L. W. Burritt, j'r	L. W. Burritt, j'r., and Walter Jones.	Do.
	1866, Feb. 13	J. K. Place & Co., by Lewis W. Burritt, attorney.	Manufacturers' Bank	1,730 03	Walter Jones	Walter Jones	Do.
	" M'ch. 26	J. K. Place & Co	do	1,500 00	do	do	Do.
	" Apr. 19	J. K. Place & Co., by L. W. Burritt, j'r, attorney.	North River Bank	1,000 00	do	do	Do.
	" July 16	do	Metropolitan Bank	1,000 00	do	do	Do.
	" " 28	do	do	1,000 00	do	do	Do.
	1867, M'ch. 7	do	Manufacturers' Bank	2,000 00	do	do	Do.
	" " 18	do	Metropolitan Bank	972 12	do	do	Do.
	1866, Feb. 3	J. K. Place & Co	North River Bank	400 00	James Howell	James Howell, j'r	James Howell, j'r.
	1867, Mch. 15	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' Bank	1,000 00	J. Howell, j'r	do	Do.
829	1867, May 29	J. K. Place & Co., by L. W. Burritt, j'r, attorney.	Park Bank	1,201 46	James Howell, j'r	James Howell, j'r	James Howell, j'r.
	" Nov. 2	do	Metropolitan Bank	140 80	J. Howell, j'r	do	Do.
	1866, Feb. 23	do	Manufacturers' Bank	50 00	Frederick Seybold	Frederick Seybold	Ebenezer L. Roberts.
	" Apr. 17	do	do	75 00	do	do	Do.

	" June 4	....do	....do		57 44	....do	....do	Do.
	1867, M'ch 9	....do	Metropolitan Bank		200 00	Henry Sharp	Henry Sharp	Do.
	" Apr. 11	....do	....do		198 12	....do	....do	Do.
	1866, Nov. 23	....do	....do		1,000 00	Robert White	Robert White	Ebenezer L. Roberts and R'b't White.
	1867, Jan. 4	....do	....do		1,000 00	....do	....do	Do.
	" Feb. 26	....do	North River Bank		2,000 00	....do	....do	Do.
	" Apr. 12	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' Bank		2,000 00	Robert White	Robert White	Do.
	" May 22	J. K. Place & Co., by L. W. Burritt, j'r, attorney.	Metropolitan Bank		1,059 00	....do	....do	Do.
	" June 22	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' Bank		250 00	....do	....do	Do.
	" July 6	J. K. Place & Co., by L. W. Burritt, j'r, attorney.	Metropolitan Bank		143 35	....do	....do	Do.
830	1866, Sept. 15	....do	Manufacturers' Bank		680 00	Samuel Oliver	Samuel Oliver	Ebenezer L. Roberts & Sam'l Oliver.
	1867, Feb. 2	J. K. Place & Co., by J. B. Morgan, att'y	....do		500 00	....do	....do	Do.
	" " 16	J. K. Place & Co., by L. W. Burritt, j'r, attorney.	North River Bank		400 00	....do	....do	Do.
	" M'ch 23	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' Bank		600 00	....do	....do	Do.
	" " 30	J. K. Place & Co., by L. W. Burritt, att'y	North River Bank		300 00	....do	....do	Do.
	" May 4	....do	Manufacturers' Bank		103 76	....do	....do	Do.
	" Feb. 12	J. K. Place & Co	....do		225 00	Herring, Farrel & Sherman.	Herring, Farrel & Sherman, by John L. Roberts, att'y.	John L. Roberts.
	" Apr. 26	J. K. Place & Co., by L. W. Burritt, j'r, attorney.	Metropolitan Bank		5,000 00	Pottier & Stymus	Pottier & Stymus	W'm P. Stymus.
	" May 25	....do	Park Bank		2,500 00	....do	....do	Do.
	" Apr. 3	....do	Metropolitan Bank		5,000 00	....do	....do	Do.
	1866, Aug. 2	....do	Manufacturers' Bank		500 00	John B. Morgan	John B. Morgan and Higgins & Bommer.	Septimus Higgins.
	1867, Apr. 27	....do	Metropolitan Bank		491 60	Higgins & Bommer	Higgins & Bommer	Do.
	" Sept. 28	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' Bank		18 00	.... do	....do	Do.
	" M'ch 20	J. K. Place & Co., by L. W. Burritt, j'r, attorney.	Metropolitan Bank		1,000 00	Phillbin & Quin	Phillbin & Quin	Stephen Phillbin.
	" Aug. 21	....do	Manufacturers' Bank		1,268 39	.... do	....do	Do.
831	1867, Oct. 3	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' Bank		108 38	Stephen Phillbin	Stephen Phillbin and Phillbin & Quin.	Stephen Phillbin.
	1866, Nov. 24	J. K. Place & Co., by L. W. Burritt, j'r, attorney.	Metropolitan Bank		2,000 00	J. T. Smith	J. T. Smith	J. T. Smith.
	" Dec. 1	....do	....do		1,000 00	....do	....do	Do.
	1867, M'ch 12	J. K. Place & Co., by J. B. Morgan, att'y	Manufacturers' Bank		409 50	....do	....do	Do.
	" Apr. 11	....do	....do		1,000 00	....do	....do	Do.
	" " 22	....do	....do		2,050 00	....do	....do	Do.
	" May 29	J. K. Place & Co., by L. W. Burritt, j'r, attorney.	Park Bank		859 50	....do	....do	Do.

832 FRANCIS B. WALLACE, sworn for plaintiff, and examined by plaintiff's counsel:

Q. 1. Please look at the check now shown you, marked "Exhibit No. 1, Nov. 12, 1869," and see if you recognize the endorsement.

A. Yes, sir; it is my endorsement.

Q. 2. Those two endorsements are yours?

A. Yes, sir.

Check copied as follows:

NEW YORK, *September* 18, 1865.

Metropolitan Bank pay to the order of John A. Livingston forty-five hundred dollars.

$4,500. J. K. & E. B. PLACE.

(Endorsed:) Pay F. B. Wallace or order. John A. Livingston. F. B. Wallace; F. B. Wallace & Co. Exhibit 1, Nov. 12, 1869. R. E. S., examiner.

Q. 3. Will you state from whom and for what you received it?

A. I received that from M'r Livingston. I think it was for the lease of a lot on 5th avenue, corner of 47th street.

Q. 4. What did you give for the check?

A. I sold M'r Livingston—the trade was with M'r Livingston—I sold him the lease of two lots on the corner of 47th street and 5th avenue, and M'r Place took the corner lot; and that was the price of the corner lot.

Q. 5. The check shown was the price of the corner lot?

A. Yes, sir.

Q. 6. What was the price of the next lot?

A. The two lots were $8,000. I sold them to M'r Livingston together. He bought them; but he told me that one of them, the corner one, M'r Place would take, and they arranged the price between them.

Q. 7. To whom had you paid rent on that lease?

A. To Columbia College.

Q. 8. Do you remember who was the treasurer?

A. Gouverneur M. Ogden.

Q. 9. Did you collect the check?

A. Yes, sir.

Q. 10. In the ordinary way through the bank?

A. Yes, sir; it was credited to my individual account, I presume.

Q. 11. What was the date of the transaction?

A. I have no memorandum of the date.

Q. 12. Did you receive the check about the time?

833 A. Yes, sir; at the time the lease was transferred they paid me. The original check is hereto annexed.

F. B. WALLACE.

Subscribed and sworn to before me this 13th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

William Man, sworn as a witness for the plaintiff, deposes and says:

I am a member of the firm of Man & Parsons, lawyers, in the city of New York. I recognize the check now shown me, dated December 29, 1865, for one hundred and sixteen dollars, signed Ja's K. Place & Co., to

the order of Man & Parsons, and which is hereto annexed, marked for identification. I recognize the endorsement on this check; it is in my handwriting; that check was received by Man & Parsons at the time it bears date, or within a day or two; it was paid and the money received by Man & Parsons; it was given for services rendered by Man & Parsons to James K. Place in the examination of the title to premises on the northwest corner of Fifth avenue and Forty-seventh street, in the city of New York, and in reference to the transfer of the lease of that property to said James K. Place.

WILLIAM MAN.

Subscribed and sworn to before me this 21st January, 1870.
R. E. STILWELL,
Examiner, &c.

834 Gouverneur M. Ogden, being duly sworn and examined as a witness, testified as follows:

I am treasurer of Columbia College, in the city of New York, and was such treasurer during the years 1865, 1866, and 1867. I recognize the endorsement on the checks now produced and shown to me, and which are hereto annexed; it is my endorsement as such treasurer; each check was received about the time of its date; they were given for rent due to the college upon the lease of the lot on the northwest corner of Fifth avenue and 47th street, in the city of New York; they were deposited with the deposits of the college, and paid.

(Five checks to order of G. M. Ogden, treasurer, for $275 each, and marked for identification, "G. M. O., Tr., 18th January, 1870," annexed, dated Nov. 2d, 1865, April 30, 1866, Oct. 27th, 1866, April 30th, 1867, and Oct. 30th, 1867.)

G. M. OGDEN.

Subscribed and sworn to before me this 20th January, 1870.
R. E. STILWELL,
Special Examiner, &c.

Robert J. Livingston, sworn on the part of complainants, deposes and says:

In May, 1865, I made leases of some lots in 43d street to James D. Sparkman, E. B. Place, and James K. Place. I have received rent on those leases up to and including November 1, 1869. I recognize the four checks here produced and shown me and hereto annexed:

One dated May 7, 1866, for	.....	$450 00
One November 9, 1866, "	.....	900 00
One April 30, 1867, "	.....	900 00
One November 2, 1867, "	.....	900 00

835 The endorsements thereon are in my handwriting, or in the handwriting of H. Weld or Joseph Delafield, who were my agents. The checks were given for rent of said premises, and were collected by me about the times they bear date. Since November, 1867, the rents have been paid partly by A. M. Reynolds, and partly by F. W. Smith.

ROBT J. LIVINGSTON.

Subscribed and sworn to before me this 25th January, 1870.
R. E. STILWELL,
Special Examiner, &c.

Cornelius Doyle, called and sworn as a witness on the part of the complainant, deposes and says:

In 1866 and 1867 I was a plasterer. I knew the premises northwest corner of 47th street and 5th avenue. I plastered that building for James K. Place, through M'r Roberts, as his architect, for $3,285 contract, and $150 extra. I recognize the checks now produced and shown me and hereto annexed:

One dated August 25, 1866		$2,000 00
One "	November 3, 1866	1,000 00
One "	May 27, 1867	435 00

The endorsement Cornelius Doyle on each of those checks are in my handwriting. Those checks were received and collected by me at the time they bear date, and were given in payment for the plastering work above mentioned.

CORNELIUS DOYLE.

Subscribed and sworn to before me this 25th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

836 John Shuster, being duly sworn and examined as a witness for plaintiff, deposes and says as follows:

I am carrying on the marble business in Brooklyn, and did so in 1867 I know the premises on the northwest corner of 5th avenue and 47th street in this city. We done some tiling and some work on the stairs. I think M'r E. L. Roberts, the architect, gave me the order. The work amounted to about $1,600. I recognize the checks now produced and shown me, and hereto annexed, one dated March 8, 1867, for $1,600, and one dated April 22, 1867, for $100.36. The endorsements thereon in the words "John Shuster by Mary Shuster, att'y," are in the handwriting of my wife, who was my attorney at the time. The said checks were deposited and collected from my account. I did some work on the premises in 42d street occupied by the old gentleman, M'r James D. Sparkman. The old gentleman, M'r James D. Sparkman, employed me. The work amounted to $17. It was done September 7, 1867. I have not been paid this amount.

JOHN SHUSTER.

Subscribed and sworn to before me this 19th day of January, 1870.

R. E. STILWELL,
Special Examiner, &c.

John Darcy, being duly sworn and examined on the part of the plaintiff, deposes and says as follows:

In June, 1867, I was a partner in the firm of H. H. Craigie & Co., in the business of plumbing and gas-fitting in this city. I recognize the check now produced and shown me, and hereto annexed, dated the first of June, 1867, for ($174.21) one hundred and seventy-four dollars and twenty-one cents. The endorsement is in the handwriting of H.
837 H. Craigie, my partner. The check was received and collected by my firm about the time it bears date. The check was given for gas-fitting work done by our firm at the request of E. L. Roberts, architect, on some stables on the south side of 43d street, between 5th and 6th avenues. The work was done in January, April, and May, 1867,

and amounted to one hundred and seventy-four dollars and twenty-one cents.

JOHN DARCY.

Subscribed and sworn to before me this 24th Jan., 1870.

R. E. STILWELL,
Special Examiner, &c.

J. Walter Clarke, a witness for the plaintiff, being duly sworn, testifies and says as follows:

In May, 1867, I was acting cashier of the Architectural Iron Works. I didn't know the premises at the corner of 47th street and 5th avenue. I recognize the check now produced and shown me, and hereto annexed, dated May 8, 1867, for $339.58 to the order of the Architectural Iron Works. The endorsement thereon in the words "Architectural Iron Works, J. Walter Clarke," is in my handwriting. That check was received by the Architectural Iron Works about its date, and was collected by it through its regular bank account. That check was received by the Architectural Iron Works in payment for some work we did at M'r Place's house; to the best of my recollection, we did work at his house. The amount of the work done at his house was $339.58, and it was done during January, February, and March, 1867, and that check was given in payment of it.

J. WALTER CLARKE.

Subscribed and sworn to before me this 21st Jan., 1870.

R. E. STILWELL,
Special Examiner, &c.

838 Joseph Garry, being called, sworn, and examined as a witness on the part of the complainant, testifies as follows:

In 1866 and 1867 I was a contractor in certain diggings, as a partner with Patrick Garry, under the firm-name of J. & P. Garry; I recognize the checks now produced and shown me—one dated November 17, 1866, for four hundred dollars; one dated March 30, 1867, for five hundred dollars; one dated May 11, 1867, for fifteen hundred dollars; and one dated July 6, 1867, for fifty-seven $\frac{57}{100}$ dollars; the endorsements of J. & P. Garry on said checks are in my handwriting; the said checks were given to and collected by us at the times they bear date: they were given for excavations of cellars of houses on Forty-third street, between Fifth and Sixth avenues, in this city; we were employed to do the work by Mr. Sparkman and Mr. Roberts; I received these checks at J. K. Place & Company's office in Front street, on orders from Roberts.

JOSEPH GARRY.

Subscribed and sworn to before me this 20th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

Edwin Holmes, sworn and examined on the part of the plaintiff, deposes and says as follows:

In April, 1867, my business was that of putting in burglar-alarm telegraphs; I know Mr. Place's premises, N. W. corner 47th street and 5th avenue, this city; I put in a telegraph there; I could not tell what amount of work I did there, but I did some work; I put in a burglar-alarm telegraph; I recognize the check shown to me; it is in my handwriting; I received it, I have no doubt, about the time of its date;

no recollection of it, although I recognize my endorsement; I did my business through the architect, Mr. Roberts; the check was given for the payment of the telegraph, as above stated; I collected my checks at that time by depositing them in bank; I have no doubt that one went through the ordinary course; I hereto annex the check.

E. HOLMES.

Subscribed and sworn to before me this 24th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

James Morgan, sworn for plaintiff, deposes and says as follows:

My business in 1866 was that of a stone-cutter; I was the Morgan of the Morgan & Anderson firm, stone-cutters, corner of King and Ferris streets, Brooklyn; that was my business and firm also in 1865; I know the premises northwest corner of Forty-seventh street and Fifth avenue; our firm did work there; we did the stone-cutting of the front and end on 47th street; I believe it amounted to something in the neighborhood of $25,000; I could not tell the exact amount; our contract, I think, was $21.000; but there was extra work, making it $25,000; I believe James K. Place employed us; the checks now produced and shown to me and hereto annexed, marked by me with the initials "J. M., Feb'y 1st, 1870," are all endorsed in my handwriting; the check, March 22d, 1866, I don't know what it was given for, but the endorsements are in my handwriting; the checks were received by us for the account of the stone-cutting work on the house corner of 47th street and 5th avenue; there was no other account on which we received their checks at all; I have no doubt as to what these checks were given for; they were all given in payment of our contract on that house; I believe that each of them were given at the date they bear, and were collected at as early an hour afterwards as possible; that is, we were in the habit of taking them right to our own bank, and passing them through in the usual way; there is between $400 and $500 still remaining unpaid to us on that house; I could scarcely tell you when the work was done that is not paid for, without referring to the books; it might be in 1866 or 1867; it was for extra work.

JAMES MORGAN.

Subscribed and sworn to before me this 21st April, 1870.

R. E. STILWELL,
Special Examiner, &c.

Charles F. True, being duly sworn, says:

In the years 1866 and 1867 I was one of the partners in the firm of Smith & True, builders, in the city of New York; Daniel P. Smith, who was the other member of the firm, is now deceased; the firm of Smith & True did all the wood-work upon the dwelling-house on the northwest corner of Fifth avenue and Forty-seventh street, in the city of New York, except laying the beams, the stairs, and some finishing work of the main story, such as doors and library book-cases, mantels of carved wood, &c.; the work was done under my personal supervision; I don't remember in whose name the contract was made; most of the work was done under contract; I do not now remember exactly what the work done by us amounted to; I think about $21,000 or $22,000, perhaps $23,000.

The endorsements "Smith & True," on the checks now shown to me, I believe to be the signature of M'r Smith; I have no reason to doubt

that they are each his signature; I suppose they were given for payments upon the contracts for the work done on that house, corner 47th street and 5th avenue; I have no doubt the amount of these
841 checks was received by Smith & True, at the times of the dates of them, and credited on the account for that work; the account, I think, is charged on our books to James K. Place; M'r Smith attended to the money matters and the books, and I attended to the work.

Checks marked for identification, "C. F. T., Jan'y 26, 1870,"—13 checks, as follows:

One dated	February	17,	1866	$509 10
"	June	30,	"	3,000 00
"	July	24,	"	2,000 00
"	August	2,	"	2,000 00
"	November	6,	"	3,000 00
"	January	5,	1867	1,000 00
"	January	30,	"	2,000 00
"	March	15,	"	2,000 00
"	April	24,	"	1,500 00
"	June	22,	"	1,000 00
"	July	5,	"	500 00
"	July	22,	"	484 66
"	August	2,	"	377 01

CHARLES F. TRUE.

Subscribed and sworn to before me this 26th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

Peter Puels, called and sworn as a witness on the part of the complainant, deposes and says:

I am an upholsterer, and was in the same business in 1867; in 1867 I done work at sewing and laying carpets for James K. Place, in the house corner of 47th street and 5th avenue, northwest corner; I made ottomans, laid oil-cloths; I recognize the endorsement on the check now shown me, dated April 30, 1867, for $92.96, and hereto annexed;
842 it is my signature; I received the check about the time it was drawn, and received the money for it, and it was given for work done by me on that house.

P. PUELS.

Subscribed and sworn to before me this 26th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

J. E. Macfarland called, sworn, and examined as witness on the part of the complainant, deposes and says as follows:

In 1866 and '67 I was a dealer in bluestone. I knew the premises N. W. corner 47th street and 5th avenue in this city. I furnished materials for that building, namely, flagging for cellar, kitchen, and laundry, hearths, street curb and gutter, avenue and street flagging, yard fence, water-table. I laid the flagging in sidewalks and set the curb, also flagged the cellar. I dealt with James K. Place through E. L. Roberts, architect. My work and materials amounted to $1,925.56. I was paid. The work was commenced in the early fall, 1866, and finished in December. I recognize the two checks now produced and hereto annexed.

One dated Dec., 1866, for seventeen hundred dollars ($1,700) and one dated Jan. 10, 1867, for two hundred and twenty-five dollars and fifty-six cents. The endorsement of J. E. Macfarland on each of said checks is in my handwriting. The said checks were received and collected by me at the time they bear date, and were given for the work above testified to.

J. E. MACFARLAND.

Subscribed and sworn to before me this 20th Jan., 1870.
R. E. STILWELL,
Special Examiner, &c.

C. Otto Ficht, being duly sworn and examined as a witness for plaintiff', testifies as follows:

843 I am a fresco painter and decorator. That was my business in 1866 and 1867. I recognize the checks now shown to me and hereto annexed, and I recognize my endorsement on them. They are all endorsed by me. They were received by me on that date and deposited and collected. I received the money for them. They were given as payments on a contract for decorating and frescoing a house; as payments on account. The house was at the northwest corner of Fifth avenue and 47th street, in the city of New York. They were all given for that. I did the fresco and decorating work on that house northwest corner of 47th street and 5th avenue.

C. OTTO FICHT.

Subscribed and sworn to before me this 21st Jan., 1870.
R. E. STILWELL,
Special Examiner, &c.

Martin W. Emmons, being duly sworn and examined for the plaintiff', deposes and says as follows:

In August, 1866, I was foreman for the firm of McKenzie and Clan Ranald, plumbers and gas-fitters in this city; I recognize the check now produced and shown me, and hereto annexed, being dated Aug. 24, 1866, for ($239.10) two hundred and thirty-nine dollars and ten cents, endorsed "McKenzie & Clan Ranald, Alexander McKenzie & Co.;" I received that check about the time of its date from M'r Ja's K. Place, at his store in Front street, in this city, corner of Pine street; it was given in payment for gas-fitting in house corner of 5th avenue and 47th street; that work had been done by Alex. McKenzie & Co. under my superintendency; and the work amounted to the amount of the check.

MARTIN W. EMMONS.

Subscribed and sworn to before me this, 24th January, 1870.
R. E. STILWELL,
Special Examiner, &c.

844 Henry T. Cox, being duly sworn, says:

I was, in the years 1866 and 1867, a member of the firm of Cox Brothers, doing business in the city of New York, as manufacturers and importers of gas-fixtures, etc.; the firm consisted of myself and Alfred H. Cox, my brother, who is now deceased; in 1866 and 1867 Cox Brothers sold to James K. Place gas-fixtures, which were put by us in the house on the northwest corner of Forty-seventh street and Fifth avenue, in the city of New York; the bill amounted to fifteen hundred and thirty-seven 50-100 dollars ($1,537.50;) the purchases were made as follows: The orders were given by James K. Place, viz: July 28,

1866, $875; July 31st, March 20th, 1867, $396; April 8th, 1867, $475; April 15, $60.50, and April 28, 1867, $1.25. The account was paid, $1,000 April 30, 1867, and $507.50 May 24, 1867; the account was balanced by a credit of $30, goods returned April 18, 1867; the bill was charged to J. K. Place; the endorsement on the check shown me I recognize as that of my brother, Alfred H. Cox, now deceased; it was credited to M'r Place on the day the check is dated, and the amount of it was received by the firm of Cox Brothers; the check is hereto annexed, dated April 30, 1867, for $1,000; I do not know how the $507.50 credited May 24, 1867, was paid.

HENRY T. COX.

Subscribed and sworn to before me this 28th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

Walter Jones, being duly sworn, deposes and says:

I am a builder, or was a builder in 1865, 1866, and 1867; I recognize the endorsements on the checks now shown me; they are all my signature, except one on check dated April 19, 1866, for $1,000; that
845 endorsement was made by my clerk; the checks were all deposited to my credit, and the amount of them all received by me; they were each given at about the time they bear date; they were given on account of mason-work done by me on the house on the northwest corner of Fifth avenue and Forty-seventh street in this city; the work was done by direction of the architect of the building; I received these checks at the store of J. K. Place & Co., from their book-keeper or cashier.

WALTER JONES.

Checks annexed marked "W. J., Jan. 18, 1870," as follows: March 26, 1866, $1,500; July 28, 1866, $1,000; November 20, 1865, $1,500; December 13, 1865, $1,606.09; February 13, 1866, $1,730.03; March 18, 1867, $972 12/100; July 16, 1866, $1,000; March 7, 1867, $2,000; April 19, 1869, $1,000.

WALTER JONES.

Subscribed and sworn to before me this 20th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

James Howell, j'r, called, sworn, and examined as a witness on the part of the plaintiff, deposes and says as follows:

In 1866 and 1867 I was in the iron-railing business in Brooklyn; I knew the premises at the northwest corner of Forty-seventh street and Fifth avenue in this city; I did work and furnished materials there in 1866 and 1867, at the request of E. L. Roberts, architect, to the amount of two thousand dollars and upwards, nearly three (3) thousand dollars; the work was iron railings, beams, gratings, window-guards; I was paid in full in 1866 and 1867; I recognize the checks now produced and shown me and hereto annexed: One for $1,201.46, dated May 29, 1867; one for $1,000, dated March 15, 1867; one for $140.80, dated Nov.
846 2, 1867; one dated Feb. 3, 1866, for $400; they were received and collected by me about the time they bear date, and the endorsements thereon are in my handwriting; they were given to me in

payment for the work and materials above mentioned; I received these checks at the office of J. K. Place & Co., 132 Front street, in this city.

JAMES HOWELL, J'R.

Subscribed and sworn to before me this 20th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

Ebenezer L. Roberts, a witness called for the plaintiff, being duly sworn and examined, deposes and says as follows:

I am an architect by profession. I know the premises at the northwest corner of 5th avenue and 47th street in this city. I, as an architect, made the plans for a dwelling there, and superintended its erection. James K. Place employed me and paid me what I was paid. There is the sum of about three thousand dollars due me. I made the contracts with the mechanics. Freberick Seybold was, I think, the framer; I don't know his signature. Samuel Oliver was the stair-builder; he is in Brooklyn, in the first street west of Raymond, near Fulton avenue; the checks now shown and hereto annexed are endorsed in his handwriting; I have seen him sign his name; the checks are dated May 4, 1867, $103.76; Sept. 15, 1866, $600; Feb., 1867, $400; March 30, 1867, $300. I know J. T. Smith; his address is, I think, No. 20 Forty-third street; he was a mason on a stable in Forty-third street, built for M'r Place. I have forgotten whether the contracts were made in the name of J. K. Place or J. K. Place & Co. I have seen him write often. In my opinion, the checks now shown are endorsed in his handwriting, as follows: May 29, 1867, $859.50; April 22, 1867, $2,050; April 11, 1867,
847 $1,000; March 12, 1867, $409.50; Dec. 1, 1866, $1,000; Nov. 24, 1866, $2,000. I know Henry Sharp; he is a glass-stainer, 104 East Twenty-second street; he was in Ninth street; he was employed in cutting glass for inside doors in the Fifth-avenue house; I have seen him write; in my opinion, the endorsement on the checks produced and shown and hereto annexed is his handwriting, as follows: March 9, 1867, $200; April 11, 1867, $198.12. I know Robert White; he was a carpenter, 68 Myrtle avenue, Brooklyn; he did carpenter-work on stables in Forty-third street; I have seen him write his name; in my opinion, the endorsements on the checks now produced and shown and hereto annexed are in his handwriting, namely: July 6, 1867, $143.35; Jan. 4, 1867, $1,000; Nov. 23, 1866, $1,000; Feb. 26, 1867, $2,000; May 22, 1867, $1,059; April 12, 1867, $2,000; June 22, 1867, $250.

Cross-examined:

When I say I made the contracts, I mean I negotiated them as an architect, not as the responsible party; I drew the contracts.

E. L. ROBERTS.

Subscribed and sworn to before me this 3d May, 1870.

R. E. STILWELL,
Special Examiner, &c.

Robert White, sworn for the plaintiff, deposes and says as follows:

My business in 1866 and 1867 was builder. I did work on the two stables in 43d street, west of 5th avenue; I took the contract from M'r Roberts, the architect; I got my pay at M'r Place's counting-house in Front street. I recognize the checks now produced and shown to me, and hereto annexed, as follows: N. Y., January 4, 1867, $1,000; Nov. 23, 1866, $1,000; Feb'y 26, 1867, $2,000; April 12, 1867, $2,000;

848 May 22, $1,059; June 22, 1867, $250; July 6, 1867, $143.35. The endorsement "Robert White" is in my handwriting. They were given for building the two stables on 43rd street, and were paid; I got the pay from the office of M'r Place, by his orders; he had the check drawn upon the certificate given by M'r Roberts.

ROB'T WHITE.

Subscribed and sworn to before me this 3d May, 1870.

R. E. STILWELL,
Special Examiner, &c.

Samuel Oliver, sworn for the plaintiff, deposes and says as follows:

My business in 1866 and 1867 was stair-builder; I knew the premises in this city on the northwest corner of 5th avenue and 47th street; I put up the stairs and did the wainscoating of the hall; I got paid for it, and recognize checks now shown me as the ones by which I was paid, as follows: September 15, 1866, for $600; Feb'y 2, 1867, for $500; Feb'y 16, 1867, for $400; March 23, 1867, for $600; March 30, 1867, $300; May 4, 1867, for $103.76. The endorsement "Samuel Oliver' is in my handwriting; I presume these checks were given at the times they bear date, and were collected by me. I think I presented my certificates from M'r Roberts at M'r Place's counting-house, and they were shown to him, and he ordered the checks to be drawn.

SAM'L OLIVER.

Subscribed and sworn to before me this 3rd May, 1870.

R. E. STILWELL,
Special Examiner, &c.

Septimus Higgins called, sworn, and examined:

849 My business in 1866 and 1867 was hot-air furnaces, under the firm-name of Higgins & Bommer. I knew the premises on the northwest corner of 47th street and Fifth avenue. Our firm did work there at the request of M'r E. L. Roberts, the architect, in supplying the building with hot-air furnaces, in the amount of nine hundred and ninety-one dollars and sixty cents, which was paid to us. I recognize the checks now produced and shown to me; one dated August 2d, 1866, for five hundred dollars; one dated April 27th, 1867, for four hundred and ninety-one dollars and sixty cents. The endorsements on said checks in the words "Higgins & Bommer" are in my handwriting; the checks are hereto annexed, and were given for the work above mentioned at the time they bear date, and were collected by our firm. I also recognize the check now produced and shown me dated September 28th, 1867, for eighteen dollars; it was given to our firm and collected by us for work done in said premises.

S. HIGGINS.

Subscribed and sworn to before me this 20th day of January, 1870.

R. E. STILWELL,
Special Examiner, &c.

John L. Roberts, j'r, being duly sworn and examined on the part of the plaintiff, deposes and says as follows:

In February, 1867, I was in the employment of Herring, Farrell & Sherman; they were in the business of manufacturing and selling safes in this city; I had a power of attorney from them; I recognize the check now produced and shown me and hereto annexed, dated February 12, 1867, for ($225) two hundred and twenty-five dollars, to the order of Herring, Farrell & Sherman; the endorsement thereon in the words

"Herring, Farrell & Sherman, per John L. Roberts, j'r, attorney," is in my handwriting; I recognize the check; it was received by Herring, Farrell & Sherman, and deposited by them for collection on or
850 about the day it bears date, and was collected for their account; it was given in payment for an iron portable chest, sent to the premises northwest corner Forty-seventh street and Fifth avenue, in this city, ordered, I presume, by J. K. Place; it is my recollection that M'r Place ordered it, but I am not positive.

JOHN L. ROBERTS, J'R.

Subscribed and sworn to before me this 24th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

William P. Stymus, sworn for the plaintiff, deposes and says as follows:

My firm from April to November, 1867, was Pottier & Stymus; location, 623 Broadway; and business, cabinet-manufacturers. The checks now produced and shown to me, and hereto annexed, marked with my initials and the present date, February 1, 1870, are endorsed Pottier & Stymus by me, in my handwriting. They were received by our firm about the time they bear date, and collected through the banks in the ordinary way. They were given in liquidation of a bill of M'r's James K. Place. It was for furniture. We never had any dealings with them outside of this bill of furniture. We received this check for furniture. The dealings we had had, which resulted in the giving of these checks, were simply the selling of furniture to M'r's Place for her house. The furniture furnished by Pottier & Stymus consisted of drawing-room furniture, for the furnishing of the house on the N. W. corner of 47th street and Fifth avenue. There were only one or two rooms that she used her old furniture in; all the rest was furnished by Pottier & Stymus, a portion of the doors and hall-furniture and a part of the wainscoating only. The carpenters did some of the wainscoating. The furniture was ordered by M'r's Place in conjunction with M'r Place. I cannot say the
851 year, but I can approximate it. The first payment was made May 27, 1867. It was ordered a year prior to that; ordered in 1866. We manufactured it to order. The enumeration of the articles contained in the paper now produced and shown to me, and hereto annexed, purporting to be a copy of a chattel-mortgage and schedule annexed thereto, corresponds with the description of the property furnished by us, as I have testified. They are the goods so purchased of Pottier & Stymus, so far as I can say, exclusive of the pictures and carpets. After the receipt by us of these checks I think we did not furnish any additional goods. I received money from M'r's Place in person after my return from Europe. I think it was in December. There was a payment of $1,500 besides the checks. I could not give the date or the form or mode of the payment, and could not say, without referring to my books, who it was received from. I recollect of having received an amount, but how much I could not say, to close up and liquidate the bill with M'r's Place. The date I do not know, but it was after his insolvency. They sent for me after my return from Europe. I learned upon my arrival of his insolvency, and I went to see him to see how he was going to liquidate his or her obligations to us, and he said that he was in trouble, but that M'r's Place would settle that affair of hers, and would let me know when she could do so; and they sent me word afterwards and I went up. I received it in bills. The last payment was made in bills.

WILLIAM P. STYMUS.

Subscribed and sworn to before me this 25th February, 1870.
R. E. STILWELL,
Examiner, &c.

EXHIBIT 67.

To all to whom these presents shall come:

Know ye that we, Susan A. Place, wife of James K. Place, of the city of New York, and the said James K. Place, of the first part, for securing the payment of the money hereinafter mentioned, and in
852 consideration of the sum of one dollar to us duly paid by John W. Cross, of the said city of New York, of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, having bargained and sold, and by these presents do grant, bargain, and sell, unto the said party of the second part, all the household furniture and all other goods and chattels mentioned in the schedule hereunto annexed, and now in the dwelling-house situated in the city of New York, on the northwest corner of Fifth avenue and Forty-seventh street, to have and to hold all and singular the goods and chattels above bargained and sold, or intended so to be, unto the said party of the second part, his executors, administrators, and assigns, forever. And we, the said parties of the first part, for our and each of our heirs, executors, and administrators, all and singular the said goods and chattels above bargained and sold unto the said party of the second part, his heirs, executors, administrators, and assigns, against us, the said parties of the first part, and against all and every person or persons whomsoever, shall and will warrant and forever defend. Upon condition that if we, the said parties of the first part, shall and do well and truly pay unto the said party of the second part, his executors, administrators, or assigns, the just and full sum of seventy thousand dollars, with interest, according to the condition of our certain bond bearing even date with these presents, conditioned for the payment of the sum of seventy thousand dollars ($70,000) with interest, on or before the twenty-third day of January, in the year one thousand eight hundred and seventy, said interest to be paid semi-annually, then these presents shall be void. And we, the said parties of the first part, for ourselves, our and each of our executors, administrators, and assigns, do covenant and agree to and with the said party of the second part, his executors, administrators, and assigns, that in case default shall be made in the payment of the said sum above mentioned, then it shall and may be lawful for, and we, the said parties of the first part, do hereby authorize and empower the said party of the second part, his executors, administrators, and assigns, with the aid and assistance of any person or persons, to enter our dwelling-house, store, and other premises, and such other place or places as the said goods and chattels are or may be placed, and take and carry away the said goods and chattels, and to dispose of the
853 same for the best price they can obtain, and out of the money arising therefrom to retain and pay the said sum above mentioned, and all charges touching the same, rendering the overplus (if any) unto Susan A. Place, or to her executors, administrators, or assigns. And until default be made in the payment of the said sum of money, we are to remain and continue in the quiet and peaceable possession of the said goods and chattels, and the full and free enjoyment of the same.

In witness whereof we, the said parties of the first part, have hereunto

set our hands and seals, the twenty-third day of January, one thousand eight hundred and sixty-eight.

SUSAN A. PLACE. [L. S.]
JA'S K. PLACE. [L. S.]

Sealed and delivered in the presence of—
JAMES J. CAMPBELL.

STATE OF NEW YORK,
City and County of New York, ss:

On this twenty-third day of January, in the year 1868, before me personally came James K. Place and Susan A. Place, his wife, severally known to me to be the same persons described in and who executed the foregoing instrument, and severally acknowledged that they executed the same. And the said Susan A. Place, on a private examination by me made separate and apart from her said husband, acknowledged that she executed the same freely, and without any fear or compulsion of or from her said husband.

JAMES J. CAMPBELL,
Notary Public, N. Y. County.

Schedule referred to.

Carpets, mats, and oil-cloths throughout the house, a chandelier in drawing-room, and brackets, ditto, library, a chandelier and brackets, drawing-room, gas fixtures throughout the house.

DRAWING-ROOM.—One amaranth ebony and gilt wall-mirror, three ditto cornices, one pier-frame to match, and glass with base, one amaranth ebony and gilt cabinet, one Egyptian sofa, with slip-covers, two Egyptian arm-chairs, with slip covers, three Egyptian chairs, slip-covers, two gilt reception-chairs, three sets of blue silk curtains, three pair tambour lace curtains, six porcelain curtain-holders.

LIBRARY.—Two French walnut book-cases, one French eight-
854 legged library-table, two ladies' brunday chairs, two crinoline arm-chairs, two stuffed-backed chairs, one cornice for bay window, three side curtains in gray reps, one set drill loose covers.

DINING-ROOM.—One walnut and gilt cabinet and buffet, one walnut extension-table, eight walnut shield-chairs, two walnut arm-chairs, one cornice for bay-window, two side curtains, and one curtain of drapery in tapestry, three pairs lace curtains, one clock to fit on mantel, four walnut and gilt curtain-holders, one set linen loose covers.

FRONT CHAMBER.—One rich maple and rosewood bedstead, one rich maple and rosewood bureau and glass, one rich maple and rosewood table and deep drawer, one rich maple large easy chair in blue reps, three rich maple cornices and brackets, one rich maple cornices for small room, eight rich maple curtain-holders, four sets blue wool reps curtains, four sets lace curtains, blue chintz loose covers, one spring mattrass, one hair mattrass, one bolster and two pillows.

BACK CHAMBER —One rosewood bedstead, one rosewood bureau and glass, one rosewood commode, one rosewood sewing-table, three rosewood gilt cornices, one walnut gilt cornices bath-room, six rosewood gilt curtain-holders, three sets crimson reps curtains, three sets lace reps curtains, one best spring mattrass, one best hair mattrass, one bolster and two pillows.

DRESSING-ROOM.—One rosewood dressing-glass, one rosewood and gilt cornice for bay window, two reps side curtains, one centre draping reps, three sets lace curtains, four rosewood and gilt curtain-holders.

HALL.—One walnut and oak hall mrror, 57 white Holland shades.

THIRD STORY, FRONT.—One walnut bedstead, one bureau-glass, walnut; one lounge in reps, walnut; two excelsior chairs, walnut; one rocking-chair, walnut; one table, circular, drawer, walnut; one walnut arm-chair in reps, one hair mattrass, one spring mattrass, one pair of pillows and bolster.

THIRD STORY, BACK.—Three imitation rosewood excelsior chairs in reps, one imitation rosewood excelsior chair in reps, three birch chairs.

FOURTH STORY.—Bedstead, chairs, and bureau, in servants' room.

SUSAN A. PLACE,
JAMES K. PLACE.

855 Strawberries, by Lilly Spencer; Waterhouse, by Butler; Game, by LaCroix; Lake Lucerne, by Butler; Bread and Tears, Indian; Onions, LaCroix; Flowers, LaCroix; Selling Chickens, ———; Interior of Stable, L. Van Keyck; Landscape and Cattle, Bressot; Trees in Blossom, LaCroix; Camels, Treu; Bull-Dog, Hays; Ox-Cart, Otto Webber; Nahant, Hazletine; Flowers, LaCroix; The Madonna; Garibaldi Soldier taking leave of his Mother; Dick Peak, Adirondacks, W. F. Richards; Sheep, Robb; Musical Soul, Urdman; Love's Position, Stand; Widow of an officer killed at Solferino, Corolas; Happy Thoughts, Schlesinger; Interior S't Paul at Antwerp, Greenaerts; Playing Papa; Musical Lesson, G. Priva; Calvary, Wy. Dette: Huntsman and Dogs; Madame Le Brune; Angel of Annunciation; News from the War, Induries; Cupid; Voyage of Life, 4 pieces, engravings; five small pictures.

SUSAN A. PLACE,
JAMES K. PLACE.

I hereby certify that there are attached to the bond for seventy thousand dollars, to secure with this mortgage and a mortgage bearing even date herewith are executed, stamps to the amount of seventy dollars, duly cancelled in presence of the register of the city and county of New York.

CHA'S G. HALPINE, *Register.*

OFFICE OF THE REGISTER OF DEEDS, &c.,
City and County of New York:

I have compared the annexed copy with an instrument filed in this office, on the 25th day of January, A. D. 1868, at 12 o'clock 35 min. p. m., by the number 408, and certify the same to be a correct transcript therefrom, and the whole of said instrument.

In witness whereof I have hereunto subscribed my name, and affixed my official seal, this 5th day of December, 1868.

PATRICK H. JONES, *Register.*

856 Stephen Philbin, being duly sworn and examined as a witness on the part of the plaintiff, deposes and says as follows:

I am in the plumbing and gas-fitting business, in this city; I was in that business during the whole of the year 1867. I had a partner in the plumbing business; my firm was Philbin & Quin; I know the premises at the northwest corner of 5th avenue and 47th street. We did the whole of the plumbing-work there; some little gas fitting I did. James K. Place employed me.

(Witness reads from memorandum.)

The whole value of the plumbing done by Philbin & Quin on that house was $4,339.82, and the gas-fixtures done by Stephen Philbin was

$116.99. I have received that $116.99. On Oct. 4, 1867, I received $108.38. I recognize the check now produced and shown me, and hereto annexed, and marked by me "S. P., Jan. 19th, 1870." The endorsement is in the handwriting of my book-keeper. I deposited that check, and it was paid. Sept. 28th, 1869, I received the balance of my bill of $116.99 from James K. Place. Up to Nov., 1867, I received on account of the plumbing $4,268.39. I received it from James K. Place, in checks of James K. Place & Co.; according to my recollection I did. I recognize the checks now produced and shown me, hereto annexed: one dated March 20, 1867, for $1,000; one dated August 21, 1867, for $1,268.39. The endorsement "Philbin & Quin, Stephen Philbin p'r J. W. Axford," on the one dated March 20, 1867, is in the handwriting of my book-keeper. The endorsement Philbin & Quin on the one dated August 21st, 1867, is in the handwriting of my partner, Joseph P. Quin. Both said checks were deposited in bank by us, and went to our credit, and we never saw them again until to-day; we got the proceeds of the same. We (our firm) did the whole plumbing-work on the house in 42d street, occupied by James D. Sparkman, the old gentleman. There is a small balance due
857, 858 for jobbing on that house, amounting to about $24. The order was done by the request of the servants, and we did it on the credit of James D. Sparkman. I may be mistaken as to the person who left the request, and in fact don't remember who left it. This last-mentioned work may have been done on the stable instead of in the house.

STEPHEN PHILBIN.

Subscribed and sworn to before me this 19th January, 1870.

R. E. STILWELL,
Special Examiner, &c.

Jeremiah T. Smith, being duly sworn, says:

I am a builder and mason; I had a contract with James K. Place, in 1866, for building two stables on West 43d street, near Fifth avenue; the contract was made by James K. Place and James D. Sparkman, personally; I recognize the checks now produced and shown to me; the endorsement on each of them is mine; checks marked "J. T. S., May 23d, 1870," and are hereto annexed; six checks, one dated November 24, 1867, for $2,000, one dated December 1, 1866, for $1,000, one March 12, 1867, one April 11, and one April 22, and one May 29, 1867, for $409.50, $1,000, $2,050, and $859.50; they were all given for work done by me at the stables in West 43d street; I received these checks at James K. Place & Co.'s store, in Front street, of their cashier; these checks were all paid, and I received the money for them; I think there were other checks besides these for work I did on these buildings.

JER. T. SMITH.

Subscribed and sworn to before me this 30th May, 1870.

R. E. STILWELL,
Special Examiner, &c.

859 EXHIBIT 67.

Order extending receivership.

U. S. district court.

JOHN SEDGWICK, AS ASSIGNEE &C., *ag't* JAMES K. PLACE ET AL.

An order having been made in this cause, bearing date the twenty-

second day of January, eighteen hundred and seventy, requiring the defendant, James T. Sparkman, individually in his own right, and as executor, &c., to show cause, at the time and place therein mentioned, why, pending this action, and until the further order or decree of the court therein, a receiver should not be appointed of the promissory notes, accounts, claims, and demands hereinafter mentioned, and such order to show cause now coming on to be heard, and F. N. Bangs, esq., 860 appearing for the plaintiff, and T. C. T. Buckley, esq., appearing for the defendant, James T. Sparkman, and it appearing on the papers presented by the plaintiff that a receiver is expedient for the safe custody pending the litigation of the property affected by said motion: Now, on motion of said F. N. Bangs for the plaintiff, it is, without prejudice to the ultimate rights of the parties, ordered that the special receivership constituted and created in this cause by the order made therein bearing date the third day of September, eighteen hundred and sixty-nine, be, and such receivership is, hereby extended to the following promissory notes, namely: a promissory note for thirty thousand dollars, ($30,000,) made by Sparkman, Place & King to the order of James T. Sparkman, executor, bearing date New York, November twenty-fourth, eighteen hundred and sixty-seven, payable on demand after date at the Manufacturers' National Bank; also, a promissory note made by Sparkman, Place & King, dated New York, December twenty-fourth, eighteen hundred and sixty-seven, for three thousand four hundred and eighty-nine dollars and fourteen cents, ($3,489.14,) payable on demand after date to the order of James T. Sparkman, executor, at the American Exchange National Bank; also, a promissory note made by Sparkman, Place & King, bearing date New York, December twenty-sixth, eighteen hundred and sixty-seven, for ten thousand dollars, ($10,000,) payable on demand after date to the order of Sparkman, Place & King, at the Manufacturers' National Bank, and endorsed by said Sparkman, Place & King; also, a promissory note made by said Sparkman, Place & King, bearing date New York, February the seventeenth, eighteen hundred and sixty-eight, for eight hundred dollars, ($1,800,) payable on demand after date to the order of James T. Sparkman, executor, at the Manufacturers' National Bank; and to all other vouchers, notes, bills, and evidences of debt, claims, demands, and property, which are the proceeds of the forty thousand dollars Government bonds and securities mentioned and referred to in the papers upon which said order to show cause was granted; and that the said defendant, James T. Sparkman, do deliver the said promissory notes and proceeds to John Sedgwick, the special receiver appointed by said order of September third, eighteen hundred and sixty-nine, under the direction of the special master mentioned in said order of September third, eighteen hundred and sixty-nine, and do for that pur- 861 pose attend, from time to time, before such special master as required by his order or summons, for the purpose of transferring, delivering, and endorsing, or otherwise conveying the said promissory notes and other proceeds to the said special receiver.

It is further ordered that said special receiver do keep the said property affected by this order, and to which this order extends his said receivership, and the proceeds thereof, separate and apart from the other funds received by him as such special receiver under said order of September third, eighteen hundred and sixty-nine, so that the same shall not be mingled with such other funds, but that he keep such moneys as shall come to his hands under this order in a separate account in

the United States Trust Company, in the city of New York, to be drawn therefrom only by the special order of the court.

Witness the honorable Samuel Blatchford, judge of said district court, at the court-rooms of said court, No. 41 Chambers street, in the city of New York, on the first day of February, in the year of our Lord eighteen hundred and seventy, and of the Independence of the United States the ninety-fourth.

SAMUEL BLATCHFORD.

A true copy from the original on file.

GEO. F. BETTS, *Clerk.*

832 EXHIBIT 68.

U. S. district court.

JOHN SEDGWICK, AS ASSIGNEE, &C., *vs.* JAMES K. PLACE ET AL.

Extract from Ledger B, J. K. & E. B. Place, p. 795.

TABER & PLACE.—"SPECIAL."

1863.				1863.			
July 21	To cash	219	$10,000 00	Nov. 6	By cash	258	$10,000 00
Dec. 31	" interest	96	205 68		" am't to C. Place	795	205 68
			$10,205 68				$10,205 68

CHARLES PLACE.—"SPECIAL."

1863.				1863.			
Nov. 6	To cash	258	$15,000 00	Dec. 31	By Place & Turley, "special"	.....	$15,362 27
Dec. 31	" Taber & Place, special	795	205 68				
" "	" interest	96	156 59				
			$15,362 27				$15,362 27

PLACE & TURLAY.—"SPECIAL."

1863.				1864.			
Dec. 31	To Cha's Place, "special"	.....	$15,362 27	Dec. 31	By am't to Ledger C.	800	$16,767 41
1864.							
Oct. 28	" cash	73	321 90				
	(In pencil)	.....	15,684 17				
Dec. 31	" interest	166	1,083 24				
			$16,767 41				$16,767 41

From Ledger C, page 800.

PLACE & TURLAY.—"SPECIAL," N 1.

1865.				1865.			
Jan'y 1	To am't from Ledger B	795	$16,767 41	Nov. 21	By cash	309	$30,000 00
Oct. 29	" cash	285	445 50	" 30	" Pacific Oil Co	249	1,125 00
July 31	" J. D. Sparkman	254	10,966 74	" "	" E. B. Place	249	1,000 00
Nov. 30	" interest	.....	1,334 92				
" "	" balance	.....	2,610 43				
			$32,125 00				$32,125 00

1865.			
Nov. 30	By balance	.....	$2,610 43
1866.			
Dec. 31	" interest	80	197 57
1867.			
	(In pencil)	.....	2,808 00
Nov. 20	" "	178	175 00
	(In pencil)	.....	2,983 00

A true copy, compared by me with the original.

R. E. STILWELL,
Special Examiner, &c.

(Endorsed:) Filed April 22, 1874. Read on hearing April 22, 1871. S. B.

863 EXHIBIT 69.

U. S. district court.

JOHN SEDGWICK, AS ASSIGNEE, &C., *vs.* JAMES K. PLACE ET AL.

Copy from journal of J. K. & E. B. Place, page 259, *under date of November*, 1865.

	SUNDRIES.		
697	To Marsh, Coe & Wallis:		
23	Expense per their statement rendered	.....	$173 04
69	L. Frost & Co., for three copies "Copartnership"	.....	15 00
545	Real estate, 132 and 134 Front street, for searching title to property	$150 00	
	Register's search	19 55	
	County clerk's search	6 35	
	" " Tax	6 00	
	Loan-commissioner's search	25	
	Recording deed	2 25	
	Attending to Moore & Bryant's claim	25 00	
	Deed E. B. Place to J. K. Place	6 00	
	" J. D. Sparkman " "	6 00	
	Revenue-stamps on deed	60 00	
			$281 41
41	Real estate, 132 and 134 Front street, "James K. Place," bond and mortgage, J. K. Place to E. B. Place	$7 50	
	Stamps on mortgage	79 00	
	Recording deed from E. B. P. and wife to J. K. P	2 50	
			89 00

Copy from journal, &c.—Continued.

	SUNDRIES.		
83	Lots on 43d street, for recording six leases from Robert Livingston and wife to J. K. P., E. B. P., and J. D. S., (2 each,) @ $3.45 each		$20 70
864			
92	Place & Turlay for drawing bond and mortgage:		
	Place & T. to A. H. Wallis	$7 50	
	Assignment A. H. Wallis to S. A. Place	5 00	
	Bond and mortgage, P. & T. to F. A. Coe	7 50	
	Assignment, F. A. Coe to J. C. Place	5 00	
	Cash paid acknowledgments	8 00	
	Revenue-stamps on mortgages	100 00	
			$133 00
			$712 14

The above is a true copy compared by me with the original.

R. E. STILWELL,
Special Examiner, &c.

(Endorsed:) Filed April 22, 1871. Read on hearing April 22, 1871. S. B.

EXHIBIT 70.

U. S. district court.

JOHN SEDGWICK, AS ASSIGNEE, }
vs.
JAMES K. PLACE ET AL. }

Extract from journal of J. K. & E. B. Place, page 258, under date of November, 1865.

SUNDRIES.

92.	To Place and Turley:	
	2. Ja's K. Place for amount paid them secured by bond and mortgage on sugar-refinery to M'r's Susan A. Place, dated Nov. 30th, 1865	$25,000 00
865	6. Ephraim B. Place for amount paid them secured by bond and mortgage on sugar-refinery to M'r's Jane C. Place, dated Nov. 30th, 1865	25,000 00
	(Refinery built on 6 lots of ground extending from Front to South streets, between Jackson and Gouverneur.)	
		$50,000 00

A true copy compared by me with the original.

R. E. STILWELL,
Special Examiner, &c.

(Endorsed:) Filed April 22, 1871. Read on hearing April 22, 1871. S. B.

EXHIBIT 71.

U. S. district court.

JOHN SEDGWICK, AS ASSIGNEE, &C., *vs.* JAMES K. PLACE ET AL.

Copy from journal of J. K. Place & Co., page 175, *under date Nov.*, 1867.

	SUNDRIES.		
697	To Marsh, Coe & Wallis, as per their bills of June 1, 1867, paid September 20th.		
386	Susquehanna Seminary:		
	Services as to searches at Binghampton	$50 00	
	Official searches, $35; postage, $25; recording papers, $4; closing matter, $15	54 25	
	County clerk's certificate on deed, Mack to Place	30	
	Recording deed, white to Mack, $1.75; do. Mack to Place, $1.75	3 50	
	Services as to title of property purchased of M'r Parks, Binghampton	38 90	
	Recording deed do., postage, &c	2 25	
			$149 20
866			
58	Real estate, 282 Gates avenue, Brooklyn, searching title to premises	$50 00	
	Cash for searches—register, $1.35; personal mortgage, 50c.; county clerk, $4.15; taxes, $1	7 00	
	Postage, 40c.; drawing deed to Place, $10; bill of sale of furniture, $6	16 40	
	Drawing satisfaction pieces to bank, $2; Small & Bacon, $2; Small, $2	6 00	
	Drawing landlord and tenant's agreement, $2; general release to Robinson, $2.50	4 50	
	Cash sundries, 75c.; stamps on bill of sale, $8	8 75	
	Recording deed from M'r and M'r's Robinson, $1.50; postage, 16c	1 66	
	Drawing deed to Henry W. Needham	10 00	
	Satisfaction mortgage, Small & Bacon, $1.80; county clerk's certificate, 60c	2 40	
			$106 71
34	Fifth avenue, corner of W. Forty-seventh street:		
	Drawing bond and mortgage to J. S. Barker	$10 00	
	Stamps on same, $30; acknowledgment, $2	32 00	
	Stamps and recording lease to M'r Wallis, and M'r W. to M'r's Place	7 00	
			49 00
107	Titus, Smith & Co., counsel and drawing papers, release of office, 132 and 134 Front street, and surrender to Allen & McDonald	$50 00	
112	J. K. & E. B. Place, *3:		
	Counsel-fees in Place & Bush	25 00	
	Taxed costs in Place & Van Benschoten	104 00	
	Counsel-fees in Place & Van Benschoten	250 00	
867			
	Counsel-fees in Comas vs. Place	25 00	
	Advertising, &c., on dissolution of partnership	19 82	
			$423 82
3	James K. Place: Deed to Hamilton Wallis, from him to S. A. Place, stamps, acknowledgments, and recording, One hundred and thirty-first st	26 50	
	Recording assignment-lease, J. D. Sparkman to him	1 50	
			28 00

Copy from journal, &c.—Continued.

	SUNDRIES.		
25	Expense: Articles of copartnership, &c	$40 50	
	Counsel as to draft collected by Keokuk bank	10 00	
	Cash paid sheriff on recovering teas from Groom Bro's	10 00	
	Counsel and services upon attachment against Groom Bro's	50 00	
	Recording deed, E. B. Place to Place & Sparkman	2 00	
			$112 50
			$919 23

The above is a true copy compared by me.

R. E. STILWELL,
Special Examiner, &c.

(Endorsed:) Filed April 22, 1871. Read on hearing April 22, 1871 S. B.

EXHIBIT 72.

U. S. district court.

JOHN SEDGWICK, AS ASSIGNEE, &C., *vs.* JAMES K. PLACE ET AL.

Copies of entries on the check-books of J. K. Place & Co., on the Manufacturers' Bank.

1865.	J. K. Place paid Anderson & Morgan, November 18		$3,000 00
"	Fifth avenue, corner Forty-seventh street, paid Man & Parsons, December 29		116 00
868			
1866.	Fifth avenue, corner West Forty-seventh street, paid Walter Jones' bill, grading, filling, and curbing—balance	$230 03	
"	Account mason-work, February 13	1,500 00	
			1,730 03
"	Fifth avenue, corner West Forty-seventh street, paid Fred'k Seybold account, framing, February 23		50 00
"	Fifth avenue, corner Forty-seventh street, paid Morgan & Anderson account, cut-stone work, February 26		1,000 00
"	Fifth avenue and Forty-seventh street, paid Morgan & Anderson third payment, cut-stone work, March 22		3,500 00
"	Fifth avenue, corner Forty-seventh street, paid Walter Jones' account, mason-work, March 26		1,500 00
"	Fifth avenue, corner West Forty-seventh street, paid F. Seybold account, framing, April 17		75 00
"	Fifth avenue, corner West Forty-seventh street, paid balance F. Seybold account, June 4		57 44
"	Fifth avenue, corner West Forty-seventh street, paid Smith & True first payment, account contract, June 30		3,000 00
"	Fifth avenue, corner West Forty-seventh street, paid Smith & True second payment, account carpenter-work, July 24		2,000 00
"	Fifth avenue, corner Forty-seventh street, paid Higgins & Bommer account, heating-apparatus, August 2		500 00
"	Fifth avenue, corner Forty-seventh street, McKenzie & Clan Ranald, gas-fixtures—bill 21st August—August 24		239 10
"	Fifth avenue, corner Forty-seventh street, paid Morgan & Anderson sixth payment, account cut-stone work, September 10		2,500 00
869			
"	Fifth avenue, corner West Forty-seventh street, paid Sam'l Oliver account, stairs, September 15		600 00

1866.	Fifth avenue, corner West Forty-seventh street, paid G. M. Ogden, treasurer, rent six months, lot 49, Columbia College lease, October 27	$275 00
"	Fifth avenue, corner Forty-seventh street, paid Smith & True fourth payment, carpenter-work, November 6	3,000 00
"	Fifth avenue, corner West Forty-seventh street, paid Morgan & Anderson account, cut-stone work, November 15	2,000 00
"	Fifth avenue, corner Forty-seventh street, paid C. A. Ficht account, decorating, November 19	250 00
"	Fifth avenue, corner West Forty-seventh street, paid P. Heany on account, sod and monld, November 27	50 00
"	Fifth avenue, corner Forty-seventh street, paid C. O. Ficht on account, decorating, December 1	300 00
"	Fifth avenue, corner Forty-seventh street, paid Philbin & Quin account, plumbing, December 13	2,000 00
"	Fifth avenue, corner West Forty-seventh street, paid Patrick Heany balance due for sodding, December 13	51 00
"	Fifth avenue, corner Forty-seventh street, paid Samuel Oliver on account, stairs and wainscoting, December 15	200 00
"	Fifth avenue, corner Forty-seventh street, paid C. O. Ficht account decorating, December 17	250 00
"	Fifth avenue, corner Forty-seventh street, paid C. O. Ficht account, decorating, December 29	350 00
1867.	Fifth avenue, corner Forty-seventh street, paid J. E. McFarland balance bill for bluestone-work, 14 December, January 10	225 56
870		
"	Fifth avenue, corner West Forty-seventh street, paid Morgan & Anderson account, cut-stone work, January 19	1,200 00
"	Fifth avenue, corner Forty-seventh street, paid C. O. Ficht account, decorating, January 26	700 00
"	Fifth avenue, corner West Forty-seventh street, paid Smith & True account, carpenter-work, balance sixth payment, January 30	2,000 00
"	Herring, Farrel & Sherman—J. K. P., on account of Fifth avenue and Forty-seventh street, February 12	225 00
"	Fifth avenue, corner Forty-seventh street, paid C. O. Ficht account, decorating, February 23	600 00
"	Fifth avenue, corner Forty-seventh street, paid Walter Jones, March 7th	2,000 00
"	Fifth avenue, corner Forty-seventh street, paid Smith & True account, carpenter-work, March 15	2,000 00
"	Fifth avenue, corner Forty-seventh street, J. Howell, j'r, account, iron-work, March 15	1,000 00
"	Fifth avenue, corner Forty-seventh street, paid Sam'l Oliver account, wainscoting, March 23	600 00
"	Fifth avenue, corner Forty-seventh street, paid John Shuster for bill 22d February, April 22	100 36
"	Fifth avenue, corner West Forty-seventh street, paid Sam'l Oliver balance due per bill May 4	103 76
"	Fifth avenue, corner Forty-seventh street, paid Architectural Iron Works bill 1st March, May 8	339 58
"	Fifth avenue, corner Forty-seventh street, paid C. Otto Ficht, extra fresco work, May 20	517 00
"	Fifth avenue, corner Forty-seventh street, paid Smith & True, June 22	1,000 00
871		
"	Smith & True, Fifth avenue and Forty-seventh street, balance, carpenter, July 27	360 96
"	Smith & True, August 2	337 01
"	Fifth avenue, corner West Forty-seventh street, paid Philbin & Quinn balance gas-fittings, &c., August 21	1,268 39
"	Fifth Avenue, corner Forty-seventh street, paid Higgins & Bommer bill 28th September, September 28	18 00
"	Fifth avenue, corner Forty-seventh street, paid Stephen Philbin bill 1st September, October 3	108,38

The above are true copies, compared by me with the original entries.

R. E. STILWELL,
Special Examiner, &c.

Copies of entries on the check-books of J. K. Place & Co., on the Bank of Commerce.

1866.	Fifth avenue, corner Forty-seventh street, paid William Menzies, per order E. L. Roberts, architect, January 5th	$500 00
"	Fifth avenue, corner West Forty-seventh street, paid G. M. Ogden, treasurer, 6 months' rent lot, due 1st May, April 30	275 00
1867.	Fifth avenue, corner Forty-seventh street, paid C. Doyle in full, May 27	435 00

The above are true copies, compared by me with the original entries.

R. E. STILWELL,
Special Examiner, &c.

Copies of entries on the check-books of J. K. Place & Co., on the National Park Bank.

1866.	Fifth avenue, corner Forty-seventh street, paid E. L. Roberts on account, July 27	$500 00
872		
"	Fifth avenue, corner West Forty-seventh street, Smith & True, third payment account of carpenter-work, August 2d	2,000 00
"	Fifth avenue, corner Forty-seventh street, paid Cornelius Doyle account plastering, first and second payment, August 25th	2,000 00
"	Fifth avenue, corner Forty-seventh street, Morgan & Anderson, fifth payment on account cut-stone work, August 28th	1,000 00
"	Fifth avenue, corner West Forty-seventh street, paid J. E. McFarland on account bluestone-work, December 18th	1,700 00
"	Fifth avenue, corner West Forty-seventh street, paid Morgan & Anderson account cut-stone work, December 28th	2,000 00
1867.	Fifth avenue, corner Forty-seventh street, paid Smith & True account carpenter-work, January 5th	1,000 00
"	Fifth avenue, corner West Forty-seventh street, paid John Shuster account marble-work, March 8th	1,500 00
"	Fifth avenue, corner West Forty-seventh street, paid Smith & True account extra work, April 24th	1,500 00
"	Fifth avenue, corner West Forty-seventh street, paid trustees Columbia College rent lot to date, October 30th	275 00

The above are true copies, compared by me with the original entries.

R. E. STILWELL,
Examiner, &c.

Copies of entries on the check-books of J. K. Place & Co., on the North River Bank.

1865.	Fifth avenue, corner Forty-seventh street, paid Walter Jones account mason-work, November 20th	$1,500 00
873		
	1866. Fifth avenue, corner West Forty-seventh street, paid Morgan & Anderson account cut-stone work, January 31st	1,500 00
"	Fifth avenue, corner Forty-seventh street, paid James Howell account iron-work, February 3d	400 00
"	Fifth avenue, corner West Forty-seventh street, Morgan & Anderson account cut-stone work, April 3d	2,000 00
"	Fifth avenue, corner West Forty-seventh street, paid Walter Jones account mason-work, April 19th	1,000 00
1867.	Fifth avenue, corner West Forty-seventh street, paid C. O. Ficht account decorations, January 12th	250 00
"	Fifth avenue, corner West Forty-seventh street, paid Samuel Oliver, February 16th	400 00
"	Fifth avenue, corner West Forty-seventh street, paid Samuel Oliver account stairs, March 30th	300 00

The above are true copies, compared by me with the original entries.

R. E. STILWELL,
Special Examiner, &c.

Copies of entries on the check-books of J. K. Place & Co. on the Metropolitan Bank.

1865. Ja's K. Place paid John A. Livingston, September 19	$4,500 00
" Fifth avenue, corner Forty-seventh street, paid Walter Jones, December 13	1,606 09
1866. Fifth avenue, corner Forty-seventh street, paid Morgan & Anderson balance second payment for cut-stone work, March 9	2,000 00
874	
1866. Fifth avenue, corner West Forty-seventh street, paid fourth payment of account cut-stone work to Morgan & Anderson, April 16.	$3,000 00
1866. Fifth avenue, corner West Forty-seventh street, paid Walter Jones account mason-work, July 16	1,000 00
" Fifth avenue, corner West Forty-seventh street, paid Walter Jones account mason-work, July 28	1,000 00
" Fifth avenue, corner West Forty-seventh street, paid C. Doyle third payment account plastering, November 3	1,000 00
" Fifth avenue, corner West Forty-seventh street, paid Smith & True account carpenter-work, fifth payment, December 5	3,000 00
1867. Fifth avenue, corner West Forty-seventh street, paid Walter Jones in full to date, March 18	972 12
" Fifth avenue, corner West Forty-seventh street, paid Philbin & Quinn account plumbing, March 20	1,000 00
" Samuel Sharp, balance bill glass for Fifth avenue, corner West Forty-seventh street, bill 7th March, April 11	198 12
" Fifth avenue, corner West Forty-seventh street, paid Higgins & Bommer, furnace, &c., April 27	491 60
" Fifth avenue, corner West Forty-seventh street, C. Otto Ficht, balance decorating, April 27	800 00
" Fifth avenue, corner West Forty-seventh street, paid Cox Bro's, May 25th, balance gas-fixtures, June 3	507 50
" Fifth avenue, corner Forty-seventh street, paid J. Howell, j'r, Nov. 1, Nov. 2	140 80
" Fifth avenue, corner West Forty-seventh street, paid Smith & True on account, July 5th	500 00

The above are true copies, compared by me with the original entries.

R. E. STILWELL,
Special Examiner, &c.

875

EXHIBIT 73.

SEDGWICK *vs.* PLACE.

I have compared the annexed paper with the original entries on the Ledger C of J. K. Place & Co., and I certify that said copies are correct.

R. E. STILWELL,
Special Ex., &c.

Bills payable.

1865.			1865.		
Dec. 30	332	$281,675 88	Nov. 30	Bal.	$1,246,777 08
1866.			Dec. 1	315	10,000 00
Jan'y 31	24	295,000 00	" 4	"	10,000 00
"	Bal.	1,215,101 20	" 5	"	50,000 00
			" 13	319	10,000 00
			" 14	"	10,000 00
			" 15	320	15,000 00
			" 16	321	10,000 00
			" 18	"	5,000 00
			" 19	323	25,000 00
			" 20	"	75,000 00

Bills payable—Continued.

			Dec. 22	326	30,000 00
			" 23	326	50,000 00
			1866.		
			Jan'y 4	2	15,000 00
			" 10	7	20,000 00
			" 11	11	20,000 00
			" 12	8	100,000 00
			" 16	11	20,000 00
			" 17	12	60,000 00
			" 18	13	10,000 00
		$1,791,777 08			$1,791,777 08
876					
1866.			1866.		
Feb'y 28	50	$181,681 07	Jan'y 17	Bal.	$1,215,101 20
March 31	78	744,141 20	" 19	14	20,000 00
April 30	98	305,297 29	" 20	"	10,000 00
May 18	Bal.	1,217,630 25	" 22	16	15,000 00
			" 23	"	10,000 00
			" 25	18	25,000 00
			" 27	20	15,000 00
			" 26	19	20,000 00
			" "	"	50,000 00
			" 29	21	110,000 00
			" 30	22	20,000 00
			" 31	23	15,000 00
			Feb'y 1	25	10,000 00
			" 2	26	10,000 00
			" 6	29	10,000 00
			" 9	32	25,000 00
			" 13	35	10,000 00
			" 14	36	25,000 00
			" 15	38	45,000 00
			" 24	45	5,000 00
			" 26	47	25,000 00
			" 28	49	10,000 00
			" 10	33	10,000 00
			M'ch 1	12	118,855 15
			" 9	65	10,000 00
			" 13	62	25,000 00
			" 15	64	45,000 00
			" 17	66	2,163 21
			" 21	69	50,000 00
			" 23	71	35,000 00
			" 24	73	20,000 00
			" 27	74	50,000 00
			" 28	75	30,000 00
			" 29	76	5,000 00
			" 31	12	8,102 50
			April 9	83	15,000 00
			" 14	86	10,000 00
			" 17	88	25,000 00
			" 18	89	60,000 00
			" 19	90	10,000 00
			" 20	91	35,000 00
			" 21	92	35,000 00
			" 30	21	5,000 00
			" "	24	19,527 75
			May 5	101	15,000 00
			" 17	111	50,000 00
			" 18	112	60,000 00
		$2,448,749 81			$2,448,749 81

Bills payable—Continued.

877							
1866.				1866.			
May	31	125	$655,000 00	May	18	Bal.	$1,217,630 25
June	30	149	70,000 00	"	26	119	75,000 00
July	31	167	317,500 00	"	29	123	5,000 00
		Bal.	1,163,609 87	"	30	"	5,000 00
				"	31	29	12,953 75
				June	4	127	25,000 00
				"	6	129	15,000 00
				"	8	131	10,000 00
				"	9	132	10,000 00
				"	11	133	5,000 00
				"	12	"	10,000 00
				"	16	136	100,000 00
				"	16	"	5,000 00
				"	18	139	25,000 00
				"	20	142	5,000 00
				"	20	36	35,944 00
				"	22	143	15,000 00
				"	23	144	5,000 00
				"	26	146	20,000 00
				"	27	"	10,000 00
				"	28	147	5,000 00
				"	29	"	15,000 00
				"	30	148	4,581 72
				July	7	152	10,000 00
				"	9	153	10,000 00
				"	10	154	20,000 00
				"	13	156	10,000 00
				"	14	"	5,000 00
				"	16	157	45,000 00
				"	17	158	25,000 00
				"	18	159	5,000 00
				"	19	"	5,000 00
				"	20	160	45,000 00
				"	21	161	20,000 00
				"	23	"	10,000 00
				"	24	162	50,000 00
				"	25	163	25,000 00
				"	26	"	5,000 00
				"	27	164	55,000 00
				"	28	165	10,000 00
				"	30	"	20,000 00
				"	31	166	25,000 00
				Aug.	7	171	30,000 00
				"	10	174	35,000 00
				"	11	175	25,000 00
				"	15	177	10,000 00
				"	17	178	5,000 00
			$2,106,109 87				$2,106,109 87

(Endorsed:) Filed April 22, 1871. Read on hearing April 22, 1871. S. B.

878 EXHIBIT 74.

SEDGWICK *vs.* PLACE.

Extracts from the cash-book D of J. K. & E. B. Place, and from cash-book A of J. K. Place & Co.

EXTRACTS FROM CASH-BOOK OF J. K. & E. B. PLACE.

Page 315, 1865, Dec. 1.....	36	B. P., J. K. & E. B. P., notes sold E. Lambert, 2 due 27th March		$10,000 00
" 315, 1865, " 5.....	36	B. P., J. K. & E. B. Place, notes sold at 10 per cent.—		
		2 due 27 March	$10,000	
		3 due 28 March	15,000	
		3 due 30 March	15,000	
		2 due 31 March	10,000	
				50,000 00
" 319, 1865, " 13.....	36	B. P., J. K. & E. B Place, notes sold W. H. Phillips, 9 per cent., 2 due 28 Mar		10,000 00
" 319, 1865, " 14.....	36	B. P., J. K. & E. B. Place, notes sold at 9 per cent., W. H. P., 2 due 30 Mar		10,000 00
" 320, 1865, " 15.....	36	B. P., J. K. & E. B. P., notes sold at 9per cent., ¼, and 1-20—		
		2 due 30 March	$10,000	
		1 due 31 March	5,000	
				15,000 00
" 321, 1865, " 16.....	36	B. P., J. K. & E. B. P., notes sold W. H. P. at 9 per cent. ¼, and 1-20, 2 due 30 and 31 March, 5 each		10,000 00
" 321, 1865, " 18.....	36	J. K. & E. B. Place, notes at 9 per cent., one due 31 March		5,000 00
" 323, 1865, " 19.....	36	B. P., J. K. & E. B. Place's notes sold P. J. & A. A., at 9 per cent.—		
		4 due 30 March	$20,000	
		1 due 31 March	5,000	
				25,000 00

I have compared the annexed paper with the original entries on the cash-book D of J. K. & E. B. Place, and cash-book A of J. K. Place & Co., and certify that the said copies are correct.

R. E. STILWELL,
Special Examiner.

879 EXTRACTS FROM CASH-BOOK OF J. K. & E. B. PLACE.

Page 325 1865 Dec. 22.....	36	B. payable, J. K. & E. B. P., at 9 per cent.—		
		2 due 27 March	$10,000	
		2 due 28 March	10,000	
		2 due 2 April	10,000	
				$30,000 00
" 326, 1865, " 23.....	36	B. payable, J. K. & E. B. P., notes sold W. H. P. at 9 per cent. and ¼—		
		2 due 27 March	$10,000	
		4 due 28 March	20,000	
		4 due 2 April	20,000	
				50,000 00

EXTRACTS FROM CASH-BOOK A OF J. K. PLACE & CO.

Page 2, 1866, Jan. 4.....	36	B. payable, our notes sold P. J. & A. Armour, at 8 per cent., 3 due 7 April		$15,000 00
" 7, 1866, " 10.....	36	B. payable, our notes sold at 8 per cent.—		
		2 due 3 May	$10,000	
		2 due 9 May	10,000	
				20,000 00
" 8, 1866, " 12.....	36	B. payable, sold G. S. Robins & Son, J. K. P. & Co's notes, viz—		
		4 due 5 May	$20,000	
		4 due 7 May	20,000	
		4 due 8 May	20,000	
		4 due 9 May	20,000	
		4 due 11 May	20,000	
				100,000 00
" 11, 1866, " 16.....	36	B. payable, J. K. P. & Co's notes sold D. A. McCrady, 7½, 8 per cent., ¼, and 1-20—		
		2 due 15 May	$10,000	
		2 due 16 May	10,000	
				20,000 00

EXTRACTS FROM CASH-BOOK A OF J. K. PLACE & CO.—Continued.

Page 12, 1866, Jan. 17.....	36	B. payable, J. K. P. & Co's notes sold, viz—			
		2 due 12 May	$10,000		
		2 due 14 May	10,000		
		3 due 15 May	15,000		
		3 due 16 May	15,000		
		2 due 18 May	10,000		
				$60,000 00	
" 13, 1866, " 18.....	36	B. payable, sold E. Lambert at 7½, ¼, and 1-20, 2 due 26 April		10,000 00	
" 14, 1866, " 20.....	36	B. pay'le, notes sold at 7½ per cent., 2 due 14 May		10,000 00	
" 16, 1866, " 22.....	36	B. pay'le, our notes sold at 7½ per cent., 3 due 19 May		15,000 00	
" 16, 1866, " 23.....	36	B. pay'le, sold W. H. Phillips, at 7½ per cent., 2 due 16 May		10,000 00	

880 EXTRACTS FROM CASH-BOOK OF J. K. PLACE & CO.

Page 18, 1866, Jan. 25.....	36	B. pay'le, sold W. H. Phillips at 7½ per cent., ¼, and 1-20—			
		2 due 24 May	$10,000		
		3 due 23 May	15,000		
				$25,000 00	
" 19, 1866, " 26.....	36	B. pay'le, our notes sold at 8 per cent. net, 4 due 28 May		20,000 00	
" 19, 1866, " 26.....	36	B. pay'le, sold W. & H. at 7½—			
		5 due 25 May	$25,000		
		5 due 26 May	25,000		
				50,000 00	
" 20, 1866, " 27.....	36	B. pay'le, notes sold at 7½ per cent., 3 due 21 May		15,000 00	
" 21, 1866, " 29.....	36	B. pay'le, our notes sold at 7½ per cent.—			
		3 due 25 May	$15,000		
		3 due 26 May	15,000		
		4 due 28 May	20,000		
		7 due 29 May	35,000		
		5 due 30 May	25,000		
				110,000 00	
" 22, 1866, " 30.....	36	B. payable, notes sold at 7½ per cent.—			
		1 due 29 May	$5,000		
		3 due 30 May	15,000		
				20,000 00	
" 23, 1866, " 31.....	36	B. payable, our notes sold at 7½ per cent. to P. J. and A. Armour, 3 due 5 May		15,000 00	
" 25, 1866, Feb. 1.....	36	B. pay'le, our notes sold at 7½ per cent., 2 due 30 May		10,000 00	
" 26, 1866, " 2.....	36	B. payable, our notes sold at 7½ per cent., 2 due 30 May		10,000 00	
" 29, 1866, " 6.....	36	B. pay'le, our notes sold at 7½ per cent., 2 due 29 May		10,000 00	
" 32, 1866, " 9.....	36	B. pay'le, sold P. J. & A. Armour, at 7 per cent., ¼, and 1-20 tax, 5 due 10 April		25,000 00	
" 33, 1866, " 10.....	36	B. pay'le, our notes at 7½ per cent., 2 due 1 June		10,000 00	
" 35, 1866, " 13.....	36	B. pay'le, our notes sold at 7½ per cent., 2 due 6 June		10,000 00	
" 36, 1866, " 14.....	36	B. payable, sold W. H. P. at 7½ per cent., ¼, and 1-20—			
		1 due 19 April	$5,000		
		2 due 26 April	10,000		
		2 due 30 April	10,000		
				25,000 00	
" 38, 1866, " 15.....	36	B. payable, our notes sold—			
		2 due 12 June, 7½	$10,000		
		1 due 6 June, 7½	5,000		
		6 due April 17	30,000		
				45,000 00	
881 47, 1866, " 26.....	36	B. payable, sold N. Y. Mf. Bank our notes at 8½ per cent., due 26 June		25,000 00	
" 62, 1866, March 13....	36	B. payable, sold W. H. Phillips—			
		3 due 11 July	$15,000		
		2 due 13 July	10,000		
				25,000 00	
" 64, 1866, " 15....	36	B. payable, sold W. H. Phillips—			
		3 due 12 July	$15,000		
		2 due 13 July	10,000		
		Sold P. J. & A. Armour—			
		2 due 12 July	10,000		
		2 due 16 July	10,000		
				45,000 00	
" 65, 1866, " 17....	36	B. payable, our notes discount com.—			
		1 due 26 March	$721 07		
		1 due 26 April	721 07		
		1 due 11 April	721 07		
				2,163 21	
" 69, 1866, " 21....	36	B. payable, sold Manufacturers' Bank at 8 per cent. net.			
		4 due 20 July	$20,000		
		Sold P. J. & A. Armour, at 8 per cent.—			
		3 due 18 July	15,000		
		3 due 19 July	15,000		
				50,000 00	
" 71, 1866, " 23....	36	B. payable, sold P. J. & A. Armour, at 8 per cent., ¼, and 1-20—			
		3 due 23 July	$15,000		
		3 due 24 July	15,000		
		Sold E. Lambert at 7 per cent., ¼, and 1-20—			
		1 due 18 June	5,000		
				35,000 00	

EXTRACTS FROM CASH-BOOK OF J. K. PLACE & CO.—Continued.

Page 73, 1866, March 24....	36	B. p., sold P. J. & A. Armour, at 8 per cent., ¼, and 1-20—		
		2 due 23 July	$10, 000	
		2 due 24 July	10, 000	
				$20, 000 00
" 74, 1866, " 27....	36	B. p., sold W. H. Phillips, at 8 per cent., ¼, and 1-20—		
		5 due 25 July	$25, 000	
		3 due 26 July	15, 000	
		2 due 27 July	10, 000	
				50, 000 00
" 75, 1866, " 28....	36	B. p., sold W. H. Phillips, at 8 per cent., ¼, and 1-20—		
		2 due 26 July	$10, 000	
		4 due 27 July	20, 000	
				30, 000 00
882 76, 1866, " 29...	36	B. p., sold E. Lambert at 7½ per cent., ¼, and 1-20, 1 due 31 July		5, 000 00
" 88, 1866, April 17.....	36	B. payable, our notes sold as follows: W'm Endall at 7½ per cent., ¼, and 1-20—		
		2 due 16 Aug	$10, 000	
		D. A. McCredy at 7½ per cent., ¼, and 1-20—		
		3 due 17 Aug	15, 000	
				25, 000 00
" 89, 1866, " 18.....	86	B. payable, sold W. Endall at 7½ per cent., ¼, and 1-20—		
		2 due 15 Aug	$10, 000	
		2 due 16 Aug	10, 000	
		To Underhill & Haven, same rate—		
		2 due 15 Aug	10, 000	
		2 due 16 Aug	10, 000	
		2 due 17 Aug	10, 000	
		P. J. & A. Armour, same rate—		
		2 due 17 Aug	10, 000	
				60, 000 00
" 90, 1866, " 18....	36	B. payable, our notes sold at 7½ per cent., ¼, and 1-20—		
		2 due 20 Aug., $5,000 each		10, 000 00
" 91, 1866, " 20....	36	B. payable, sold D. A. McCredy at 7½ per cent., &c—		
		2 due 20 Aug	$10, 000	
		5 due 21 Aug	25, 000	
				35, 000 00
" 92, 1866, " 21.....	36	Bills payable, sold P. J. & A. Armour—		
		2 due, 17 Aug	$10, 000	
		3 due 21 Aug	15, 000	
		Sold E. Lambert 2 due 20 Aug	10, 000	
				35, 000 00
" 101, 1866, May 5.....	36	B. payable, sold W. H. Phillips at 7 per cent., and 1-20—		
		3 due 9 Aug		15, 000 00
" 112, 1866, " 18.....	36	B. payable, sold at 6½ per cent., and 1-20 tax—		
		2 due 17 Aug	$10, 000	
		5 due 20 Aug	25, 000	
		5 due 21 Aug	25, 000	
				60, 000 00

(Endorsed:) Filed April 22, 1871. Read on hearing April 22, 1871. S. B.

D'R. *Extracts from Cash-book D of J. K. & E. B. Place.* C'R.

260	1865. Sept. 21	....	J. K. Place ch'd his acc't by error	19	$4,500 00	212	1865. July 13	86	Fifth avenue, cor. 47th street, "J. K. P." paid J. A. Livingston $500 00
						259	Sep. 19	....	J. K. Place, p'd J. A. Livingston 4,500 00
						260	" 21	86	5th avenue, cor. 47th st., p'd J. A. Livingston 4,500 00
						285	Oct. 27	86	Fifth avenue, cor. 47th street, p'd taxes 1865, int. off $164 45 1 10 163 35
						290	Nov. 2	86	Fifth avenue, cor. 47th st., trustees Columbia College, 6 mo's rent lot No. 49 275 00
						300	" 18	86	Fifth avenue, cor. 47th st., p'd Morgan & Anderson, acc't brown-stone work 3,000 00
						301	" 20	86	Fifth avenue, cor. 47th st., p'd Walter Jones, account mason-work 1,500 00
						318	Dec. 13	86	Fifth avenue, cor. 47th st., p'd Walter Jones, bill for excavating and setting foundation-stone 1,606 09
						329	" 28	86	Fifth avenue, cor. W. 47th street, p'd G. W. Dacunha, bill frames, 26th Dec 24 00
						329	" 28	86	Fifth avenue, cor. W. 47th street, p'd Mann & Parsons, ch'g's examining title, &c 116 00

Cash-book A of J. K. Place & Co.

I certify that the above are true extracts from Cash-book D of J. K. & E. B. Place, and of cash-book A of J. K. Place & Co.

R. E. S.,
884 *Special Ex., &c.*

	1866. Jan. 5	86	Fifth avenue, cor. W. 47th street, p'd W'm Menzies, on acc't timber per direction E. L. Roberts, through M. Livingston 500 30
23	Jan. 31	86	Fifth avenue, cor. W. 47th street, p'd Morgan & Anderson, on acc't cut-stone work 1,500 00
27	Feb. 3	86	Fifth avenue, cor. 47th street, p'd James Howell acc't iron-work 400 00
35	" 13	86	Fifth avenue, cor. W. 47th street, p'd Walter Jones balance bill grading, &c $230 03 Acc't mason-work 1,500 00 1,730 03
44	" 23	86	Fifth avenue, cor. W. 47th street, p'd acc't F. Seybold, contract framing 50 00
47	" 26	86	Fifth avenue, cor. W. 47th street, p'd Morgan & Anderson, acc't cut-stone work 1,000 00
59	Mar. 9	86	Fifth avenue, cor. W. 47th street, p'd Morgan & Anderson, balance 2d payment acc't stone-work 2,000 00
70	" 22	86	Fifth avenue, cor. 47th street, p'd Morgan & Anderson, amount 3d payment cut-stone work 3,500 00
74	" 26	86	Fifth avenue, cor. W. 47th street, p'd Walter Jones, acc't mason-work 1,500 00
79	April 3	86	Fifth avenue, cor. W. 47th street, p'd Morgan & Anderson, on acc't cut-stone work 2,000 00

EXHIBIT No. 68—Continued.

D'R.					C'R.
		1866.			
	86	April 16	86	Fifth avenue, cor. W. 47th street, p'd 4th payment, acc't cut-stone work to Morgan & Anderson	$3,000 00
I certify that the above are true extracts from Cash-book A of J. K. Place & Co. R. E. S., *Special Ex., &c.*	88	" 17	86	Fifth avenue, cor. W. 47th st., p'd F. Seybold on account framing	75 00
	91	" 20	86	Fifth avenue, cor. W. 47th street, p'd Walter Jones, acc't mason-work	1,000 00

885

EXHIBIT 75.

D'R.	*Extracts from Cash-book A of J. K. Place & Co.*—Continued.				C'R.
		1866.			
	97	April 30	86	Fifth avenue, cor. W. 47th street, p'd G. M. Ogden, treas., ground-rent due 1st May	$275 00
	108	May 14	86	Fifth avenue, cor. W. 47th st., p'd F. Seybold, acc't framing	50 00
	127	June 4	86	Fifth avenue, cor. 47th st., p'd Seybold balance framing, &c.	57 44
	133	" 12	86	Fifth avenue, cor. W. 47th st., p'd Sparkman, T. & Co., cork-shavings	50 25
	148	" 30	86	Fifth avenue, cor. W. 47th street, p'd Smith & True, 1st payment carpenter-work	3,000 00
	157	July 16	86	Fifth avenue, cor. W. 47th street, p'd Walter Jones, on acc't mason-work	1,000 00
	162	" 24	86	Fifth avenue, cor. W. 47th street, p'd Smith & True, 2d payment acc't carpenter-work	2,000 00
	164	" 27	86	Fifth avenue, cor. 47th st., p'd E. L. Roberts, on acc't services rendered	500 00
	165	" 28	86	Fifth avenue, cor. W. 47th st., paid Walter Jones, acc't mason-work	1,000 00
	168	Aug. 2	86	Fifth avenue, cor. 47th street, paid Smith & True, 2d payment, acc't carpenter-work $2,000 00 Higgins & Bommer, on acc't heating apparatus 500 00	2,500 00
	185	" 24	86	Fifth avenue, cor. W. 47th st., paid McKenzie & Co., gas-fixtures	239 10
	185	" 25	87	Fifth avenue, cor. 47th street, p'd C. Doyle, 1 and 2 payments for plastering	2,000 00
886	187	" 28	86	Fifth avenue, cor. W. 47th street, paid Morgan & A. 5 p't cut-stone work	1,000 00
	197	Sept. 10	86	Fifth avenue, cor. W. 47th street, paid Morgan & Anderson, 6th payment acc't cut-stone work	2,500 00
	204	" 15	86	Fifth avenue, cor. W. 47th street, paid Samuel Oliver, acc't stairs	600 00

245	Oct. 27	26	Fifth avenue, cor. W. 47th street, p'd Columbia College 6 mo. rent of lot	275 00
248	" 31	31	Fifth ave., cor. W. 47th st., taxes 1866 $345 00 Less interest 2 10	342 90
252	Nov. 3	31	Fifth avenue, cor. 47th st., paid C. Doyle, 3d payment acc't plastering	1,000 00
255	" 6	31	Fifth avenue, cor. W. 47th st., paid Smith & True, 4th payment acc't carpenter-work	3,000 00
263	" 15	31	Fifth avenue, cor. W. 47th st., paid Morgan & Anderson, acc't cut-stone work	2,000 00
267	" 19	31	Fifth avenue, cor. W. 47th st., p'd C. O. Ficht, acc't decorating	250 00
274	" 24	30	Fifth avenue, cor. 47th st., p'd P. Mulrane, for 2 weeks and 4 days watching house	40 00
276	" 27	31	Fifth avenue, cor. 47th st., p'd P. Hearney, on acc't sod and mould	50 00
279	Dec. 1	31	Fifth avenue, cor. W. 47th st., p'd C. O. Ficht, acc't decorations	300 00
283	" 5	31	Fifth avenue, cor. 47th street, p'd Smith & True, 5 payment account carpenter-work	3,000 00
287	" 10	31	Fifth avenue, W. 47th street, p'd P. Mulrane	39 00
290	" 13	31	Fifth avenue, cor. W. 47th street, p'd P. Henry bal. for sodding, $51; Philbin & Quinn, ac't plumbing, $2,000	2,051 00
293	" 15	31	Fifth avenue, cor. 47th street, p'd S. Oliver, ac't stairs and wainscoting	200 00
294	" 17	31	Fifth avenue, cor. 47th street, p'd C. O. Ficht, acc't decorating	250 00
295	" 18	31	Fifth avenue, cor. W. 47th street, p'd J. E. MacFarland, acc't blue-stone work	1,700 00
303	" 28	31	Fifth avenue, cor. 47th street, p'd Morgan & Anderson, acc't cut-stone work	2,000 00
304	" 29	31	Fifth avenue, cor. W. 47th street, p'd C. Otto Ficht, acc't decorations	350 00

I certify that the within are true extracts from Cash-book A of J. K. Place & Co.
R. E. S.,
Special Ex., &c.

Cash-book B of J. K. Place & Co.

	1867.			
3	Jan. 5	31	Fifth avenue, cor. 47th street, p'd P. Mulrane, services to date	31 60
3	" 5	31	Fifth avenue, cor. 47th street, p'd Smith & True, acc't carpenter-work	1,000 00
6	" 10	31	Fifth avenue, cor. W. 47th street, p'd balance blue-stone work, J. E. MacFarland	225 56
8	" 12	31	Fifth avenue, cor. W. 47th street, p'd C. O. Ficht, acc't decorating	250 00
14	" 19	31	Fifth avenue, cor. 47th street, p'd Patrick Mulrane, for watching house	30 00
14	Jan. 19	31	Fifth avenue, cor. 4th street, p'd Morgan & Anderson, acc't cut-stone work	1,200 00
20	" 25	31	Fifth avenue, cor. 47th street, p'd R. S. P. ins'ce	46 25
22	" 26	31	Fifth avenue, cor. 47th street, p'd C. O. Ficht	700 00

EXHIBIT 75—Continued.

D'R. *Extracts from Cash-book B of J. K. Place & Co.* C'R.

		1867.			
25	Jan. 27	31	Fifth avenue, cor. W. 47th street, p'd Smith & True, balance 6 payment carpenter-work		$2,000 00
27	Feb. 2	31	Fifth avenue, cor. W. 47th street, p'd Patrick Mulrane, services to date	$32 14	
			Paid S. Oliver, acc't stairs, &c.	500 00	
					532 14
37	" 11	31	Fifth avenue, cor. W. 47th street, p'd Herring, Farrell & Sherman, for safe		225 00
41	" 16	31	Fifth avenue, cor. W. 47th st., p'd S. Oliver, acc't stairs	$400 00	
			Paid P. Mulrane, services	30 00	
					430 00
46	" 23	31	Fifth avenue, cor. W. 47th street, p'd acc't decorating to C. O. Ficht		600 00
49	" 26	31	Fifth avenue, cor. W. 47th st., p'd H. Sinclair, plaster ornaments		84 00
57	Mar. 7	31	Fifth avenue, cor. W. 47th st., p'd on acc't to Walter Jones		2,000 00
58	" 8	31	Fifth avenue, cor. 47th st., p'd John Shuster, on acc't marble-work		1,500 00
59	" 9	31	Fifth avenue, cor. W. 47th street, p'd H'y Sharp, acc't enriched glass		200 00
63	" 15	31	Fifth avenue, cor. W. 47th st., p'd Smith & True, on acc't carpenter-work	$2,000 00	
			J. Howell, j'r, on acc't iron-work	1,000 00	
					3,000 00
65	" 18	31	Fifth avenue, cor. W. 47th st., p'd P. Mulrane in full for watching	$35 00	
			Walter Jones in full	972 12	
					1,007 12
66	" 20	31	Fifth avenue, cor. W. 47th st., p'd Philbin & Quinn, acc't plumbing		1,000 00
69	" 23	31	Fifth avenue, cor. W. 47th st., p'd S. Oliver, acc't wainscoting		600 00
72	" 30	31	Fifth avenue, cor. W. 47th st., p'd S. Oliver, acc't stairs	$200 00	
			R. S. Place, insurance	231 83	
					531 83
79	April 11	31	Fifth avenue, cor. 47th st., p'd H. Sharp, balance bill glass, 7th March		198 12
80	" 12	31	Fifth avenue, cor. 47th st., p'd Richardson, Boynton & Co., ranges, 16th January		166 00
86	" 22	31	Fifth avenue, cor. W. 47th st., p'd J. Shuster bal. bill 22d Feb		100 36
87	" 24	31	Fifth avenue, cor. 47th st., p'd Smith & True, acc't extra carpenter-work		1,500 00
89	" 27	31	Fifth avenue, cor. 47th street, paid Higgins & Bommer, bal. furnaces, &c.	$491 60	
			C. Otto Ficht, bal'ce bill decorating	800 00	
					1,291 60

I certify that the above are true extracts from the Cash-books A and B of J. K. Place & Co.

R. E. S.,
Special Ex., &c.

889

890	1867.				
103	May 15	34	Fifth avenue, cor. W. 47th street, received from R. S. Rowley, acc't collections for sewer	$55 00	
156	Aug. 2	34	Fifth avenue, cor. 47th street, error in payment to Smith & True, 27th July	85 85	

I certify that the above are true extracts from Cash-book B of J. K. Place & Co.
R. E. S.,
Special Ex., &c.

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I certify that the above are true extracts from Cash-book B of J. K. Place & Co.
R. E. S.,
Special Ex., &c.

91	" 30	31	Fifth avenue, cor. W. 47th street, paid G. M. Ogden, treasurer, for ground-rent to 1 May ..... $275 00 E. Holmes, for burglar-alarm telegraph 195 50		470 50
93	May 1	34	Fifth avenue, cor. W. 47th street, p'd Cox Bro's, acc't gas-fixtures		1,000 00
95	" 4	34	Fifth avenue, cor. W. 47th street, paid S. Oliver, balance due per bill		103 76
97	" 8	34	Fifth avenue, cor. 47th street, paid Architectural Iron Works, 1st May		339 58
107	" 20	34	Fifth avenue, cor. W. 47th street, paid C. Otto Ficht, balance decorating		517 00
110	" 23	34	Fifth avenue, cor. W. 47th street, paid R. S. Place, ins.		41 00
112	" 27	34	Fifth avenue, cor. W. 47th street, p'd C. Doyle, in full, plastering, &c		435 00
113	" 29	34	Fifth avenue, cor. W. 47th street, p'd J. Howell, j'r, balance due for iron-work		969 39
117	June 3	34	Fifth avenue, cor. W. 47th street, p'd Cox Bro's, balance gas-fixtures		507 50
119	" 6	34	Fifth avenue, cor. W. 47th street, p'd bill, Newman & Co., bells, &c		3 19
128	" 20	34	Fifth avenue, cor. W. 47th street, p'd Williams, Globe Wire-Works		31 00
129	" 22	34	Fifth avenue, cor. 47th street, paid Smith & True, acc't carpenter-work		1,000 00
135	July 1	34	Fifth avenue, cor. W. 47th street, paid R. S. P., ins.		56 00
137	" 5	34	Fifth avenue, cor. W. 47th street, paid Smith & True, acc't extra work		500 00
152	" 27	34	Fifth avenue, cor. 47th street, p'd Smith & True, balance carpenter-work		360 96
153	" 30	34	Fifth avenue, cor. 47th street, paid water-tax, to May 1, '68		13 00
156	Aug. 2	34	Fifth avenue, cor. 47th street, paid Smith & True, carpenter-work	$101 33 187 53	288 86
167	" 21	34	Fifth avenue, cor. 47th street, paid Philbin & Quinn, balance plumbing-work		1,268 39
189	Sep. 23	34	Fifth avenue, cor. 47th st., insurance		25 00
193	" 28	34	Fifth avenue, cor. 47th st., p'd Higgins & Bommer, bill 28th Sept		18 00
197	Oct. 2	34	Fifth avenue, cor. 47th street, paid Stephen Philbin, bill 1st Sept		108 38
218	" 30	34	Fifth avenue, cor. 47th street, paid Columbia College 6 mo. ground-rent		275 00
220	Nov. 1	34	Fifth avenue, cor. W. 47th st., p'd 6 mo. int. on mortgage to date, to J. S. Barker		1,050 00
221	" 2	34	Fifth avenue, cor. W. 47th st., p'd Ja's Howell, jr., iron porch		140 80
233	" 19	34	Fifth avenue, cor. W. 47th st., p'd C. Otto Ficht, painting		26 00

(Endorsed:) Filed April 22, 1871. Read on hearing April 22, 1871. S. B.

892 District court of the United States, southern district of New York.

JOHN SEDGWICK, ASSIGNEE, &c., *vs.* JAMES K. PLACE AND OTHERS. } Sept. 23, 1870.

Testimony taken for final hearing on the part of the defendants, the executors of Susan A. Place, deceased, under and pursuant to rule 67 of the Supreme Court of the United States, as amended.

Before R. E. Stilwell, esq., special examiner.

Present, J. K. Hayward, solicitor for the executors.

Also present, counsel for the plaintiff.

JAMES K. PLACE, being called and sworn as a witness on the part of the said executors, defendants, testifies as follows:

Q. 1. State your name and residence.

A. James K. Place; residence, No. 12 West Thirty-first street, New York City.

Q. 2. Were you engaged in business in the years 1865, 1866, and 1867?

A. Yes.

Q. 3. What business?

893 A. In the grocery business.

Q. 4. At what place?

A. Corner of Pine and Front streets, numbers 132 and 134 Front street.

Q. 5. What was the name of your firm?

A. J. K. & E. B. Place in 1865, and in 1866 and '67 J. K. Place & Company.

Q. 6. Who were the partners composing the firm of J. K. & E. B. Place?

A. James K. Place and Ephraim B. Place, and James D. Sparkman, special.

Q. 7. What were their respective interests?

A. J. K. Place received three-eighths, E. B. Place three-eighths, and James D. Sparkman one-quarter of the profits of the concern.

Q. 8. When, if at all, did the firm of J. K. & E. B. Place dissolve?

A. On the 30th of November, 1865.

Q. 9. Did you purchase any leasehold property on the corner of 47th street and 5th avenue in the summer of 1865?

A. Yes, sir; I purchased a lot on the corner of 47th street and 5th avenue.

Q. 10. Of whom?

A. Francis B. Wallace.

Q. 11. For how much?

A. I paid $5,000 for it.

Q. 12. For what purpose did you purchase it?

(Objected to as immaterial.)

A. With the intention of building a house upon it, and giving it to my wife.

Q. 13. Was the purchase of that Fifth avenue lot the initiation of this house enterprise?

(Objected to as leading and irrelevant.)

A. Yes, sir.

Q. 14. What did you do with that lot, or upon that lot, after you purchased it?

A. Built a house upon it.

Q. 15. When did you commence to build that house?

A. In August, or the fore part of September, 1865.

Q. 16. How was the house erected?

A. Erected by contract with various builders.

Q. 17. What kind of contracts, written or oral?

A. Written contracts, mostly.

Q. 18. Have you any of those contracts in your possession?

A. Yes; I have one of them with me. (Producing paper.)

Q. 19. Is the paper produced by you one of these contracts?

A. Yes.

Q. 20. Is this a duplicate, or an original?

A. This is an original contract.

Q. 21. Were there two executed?

A. There were two executed, one of which I kept, and the builder kept the other.

(Paper identified by witness as a contract is offered in evidence,
894 marked "Defendants' Exhibit A, G. R. B., September 23, 1870.")

Q. 22. Who was the architect of that house?

A. E. L. Roberts.

Q. 23. Were all the builders' contracts made through him?

A. Yes, sir.

Q. 24. Were the other contracts similar to the one just marked as an exhibit?

A. Similar; all after M'r Roberts' form, I believe.

Q. 25. When, as nearly as you can recollect, were the others made?

A. The masons' and stone-cutters'—perhaps others, I don't remember now—were made about that time—about the time the building commenced, the fore part of September. This one (Exhibit A) was a little later.

Q. 26. The others were executed similar to this?

A. Yes.

Q. 27. Was the building built under those contracts?

A. Yes.

Q. 28. And paid for?

A. In accordance with the contracts.

Q. 29. Did you dispose of that leasehold lot, after you purchased it, and the house?

(Objected to as incompetent.)

A. Yes; I conveyed it to M'r's Place.

(Answer objected to as irresponsive and incompetent; that the conveyance can be proved only by the production of the deed, and the fact that there was a deed must be proved in the same way.)

Q. 30. Did you convey it directly to M'r's Place?

(Objected to as incompetent, upon the ground that the conveyance, can be proved only by the production of the deed.)

A. It was conveyed through somebody else to M'r's Place.

(Objected to on same ground.)

Q. 31. Through whom?

(Objected to upon the same ground.)

A. I think through M'r A. H. Wallis.

Q. 32. What was your intention in causing the property to be transferred to her?

(Objected to as incompetent.)

A. The intention was to give the lease to my wife, and build the house upon the ground and give that to her.

Q. 33. Had you any intention, in making such conveyance, to hinder, delay, or defraud your creditors?

(Objected to as leading and incompetent.)

A. I had no such intention.

Q. 34. About what time, if you recollect, was that transfer made?

(Objected to upon the ground that no transfer is yet proved.)

A. I think it was in December, 1865; I am not sure but that it was in September; I don't remember the date distinctly.

Q. 35. Your recollection is, it was September or December?

895 (Objected to as irrelevant, immaterial, and incompetent.)

A. Yes.

Q. 36. When was the firm of J. K. & E. B. Place dissolved?

(Objected to as already answered.)

A. November 30th, 1865.

Q. 37. How was it dissolved?

A. By written agreement.

Q. 38. What disposition was made of its assets?

(Objected to, that the best evidence is the agreement in writing, already testified to.)

A. The stock on hand was sold to J. K. Place & Company; the accounts were handed over to J. K. Place & Co. to collect and pay the debts of J. K. & E. B. Place.

Q. 39. Did J. K. Place & Co. undertake to liquidate for the old firm?

(Objected to as leading and as not the best evidence, there having been, as already appears, a written agreement.)

A. They did.

Q. 40. And did they do so?

(Objected to as leading.)

A. They did so.

Q. 41. How, and at what time, and to what extent, did they liquidate the affairs of J. K. & E. B. Place?

A. They paid the notes of J. K. & E. B. Place as they matured, and the bills for which notes were not given were paid by them as they matured; and any indebtedness that they owed was paid as it was called for.

Q. 42. How long a time did that occupy?

A. A period of about 60 days probably; 60 to 90 days it might have been.

Q. 43. What portion of the claims and demands of the firm of J. K. & E. B. Place did J. K. Place & Company collect?

A. Probably 98 per cent. of them all.

Q. 44. What part of the debts of the firm of J. K. & E. B. Place did they pay?

A. They paid all, with the exception of what was due to Ten Broeck and A. S. Anderson.

Q. 45. About how much was due to Ten Broeck and A. S. Anderson?

A. About 33 or 34 thousand dollars.

Q. 46. Have those two debts since been paid?

A. Yes; they have been both paid.

Q. 47. Who paid M'r Ten Broeck?

A. M'r E. B. Place.

Q. 48. Who paid M'r Anderson?

A. M'r E. B. Place.

Q. 49. Are there, to your knowledge, any other debts of J. K. & E. B. Place outstanding at the present time?

A. None that I know of.

Q. 50. At the dissolution of the firm of J. K. & E. B. Place,
896 how were the affairs settled up; were the books closed?

A. The books were balanced and the accounts handed over to J. K. Place & Company.

Q. 51. The books were balanced?

A. Yes.

Q. 52. A balance was struck, and the share of each partner?

A. (Interrupting.) A balance was struck, and the share of each partner carried to his credit.

Q. 53. What was the share of J. D. Sparkman?

A. About $262,000.

Q. 54. What was the share J. K. Place?

A. About $227,000.

Q. 55. What was the share coming to E. B. Place?

A. About $300,000.

Q. 56. Were you on the first of December, 1865, possessed of any other property besides your interest in the firm of J. K. & E. B. Place?

A. Yes; I had an interest, and was a special partner, in Place & Turlay's spice concern.

Q. 57. What was the value of that interest?

A. About $20,000.

Q. 58. Had you any other property besides the two interests already mentioned?

A. I don't recall anything farther at the moment.

Q. 59. Reckoning the obligations of the firm of J. K. & E. B. Place as paid at the time, your interest in the firm was, you say, $227,000?

A. Yes.

Q. 60. Had you incurred any other obligations on the first of December, 1865, than those relating to J. K. & E. B. Place?

A. I had incurred some obligations to men I had employed to build the house.

Q. 61. What was the amount of these?

A. From 50 to 60 thousand dollars.

Q. 62. Do you now think of any other obligations than those already mentioned which you had at that time incurred?

A. I don't remember anything else now.

Q. 63. Then, taking into consideration the obligations already mentioned, please state what was the net value of your estate on the first of December, 1865?

A. From 150 to 200 thousand dollars.

Q. 64. Do you know whether M'r Sparkman had at the time of the dissolution of the firm of J. K. & E. B. Place any other property than his interest in such last-named firm?

A. Yes, he had other property.

Q. 65. Do you know how much?

897 A. To the value of about $250,000, in addition to what he had in the firm of J. K. & E. B. Place.

Q. 66. What was the amount of the assets of those three partners at the time of the dissolution of J. K. & E. B. Place?

A. Something over one million dollars.

Q. 67. Was there a new firm formed immediately on the dissolution of the old?

A. Yes; a new firm—J. K. Place & Company—composed of James K. Place and James D. Sparkman.

Q. 68. That is the firm you have already mentioned as having undertaken to liquidate the affairs of the old firm?

A. That is the firm.

Q. 69. Under articles?

A. Under written articles of agreement.

Q. 70. When was M'r Sparkman to put in his amount of capital into the new firm?

A. He was expected to put in $200,000 at the time it was formed.

Q. 71. Was it understood between you and M'r Sparkman when you were to put in the amount of capital set down as your share?

A. I was to put in what I then had, and the remainder as I made in the business.

Q. 72. Up to $600,000?

A. Up to $600,000.

Q. 73. And you then had, after your debts were paid, from 150 to 200 thousand dollars?

A. Yes, sir.

Q. 74. Did M'r Sparkman know what you were worth at that time?

A. He knew what I was worth.

Q. 75. Did he put in the amount agreed to be put in by him?

A. He left that amount there; he put in that amount.

Q. 76. How much did you put in at the commencement of the business?

A. I put in all I was worth—all I had in the concern of J. K. & E. B. Place.

Q. 77. Did you ever pretend to M'r Sparkman that you were worth any more than you really were worth?

A. I never pretended to him or anybody else that I was worth any more than I really was.

Q. 78. At the time of the formation of the new firm, what kind of business and to what extent did you contemplate having the new firm do?

A. We expected to be engaged in the tea, coffee, and spice business.

Q. 79. To what extent?

A. We expected to do as much business as we could safely, with the amount of capital we had in the concern.

Q. 80. That capital amounted to how much?

A. $350,000 to $400,000.

898 Q. 81. During the year 1866, had you or not a large amount of E. B. Place's money in the business?

A. Yes; he left a large balance there.

Q. 82. About how much?

A. I think about $160,000.

Q. 83. You also had, during the first year of your business, Ten Broeck's and Anderson's money there?

A. Yes, sir.

Q. 84. With respect to Ten Broeck and Anderson, did either or both of them know that the old firm had dissolved—the firm which was their debtor?

A. They both knew that the old firm was dissolved.

Q. 85. Did they or not know who was to liquidate the affairs of the old firm?

A. They knew all about it; they called upon the new firm for the interest on their money.

Q. 86. Was either or were both of them requested by either of the partners of the old firm to come and get their money or to receive it?

A. E. B. Place requested M'r Anderson to take his money, and I believe he also requsted M'r Ten Broeck to take his.

Q. 87. What did they do after that?

A. They simply left it there with the new firm, and called for the interest every half-year.

Q. 88. Did either of the partners of the new firm ever request M'r Ten Broeck or M'r Anderson to leave that money—to let it remain there?

A. Never; the new firm were ready to pay it to them whenever they called for it.

Q. 89. When was the house on Fifth avenue completed; at the time agreed upon in the contracts?

A. It was nearly completed at that time—September 1, 1866.

Q. 90. Was it or not in process of erection from the time it was begun until it was completed?

A. Yes; except, perhaps, a short interval in the winter, when there was boisterous weather and the builders delayed.

Q. 91. What amount or sum per month was affixed or assigned to that Fifth-avenue realty from September, 1865, to Sept., 1866?

A. About $7,000 per month; seven to eight thousand would, perhaps, be more correct.

Q. 92. What amount of expenditure had been made on that Fifth-avenue realty December first, 1865?

A. Twenty-five thousand dollars; probably more.

Q. 93. What amount had been paid to the builders for that work at that time?

A. About twelve thousand dollars.

899 Q. 94. Were you engaged in any business outside of your firm of James K. Place & Co. during the years 1866 and 1867?

A. Yes; I was special partner in a sugar-refining concern.

Q. 95. Had your firm of J. K. Place & Co. any outside interests during those years?

A. No.

Q. 96. How came you to get into the sugar-refining business?

A. It was through Place & Turlay; M'r Turlay thought they had made enough money to build a sugar-house, and, having been brought up in that business, I felt entirely competent to run such an institution, and proposed building a sugar-house with the money that had been made in the spice business.

Q. 97. Was that sugar-refinery the successor of any other business?

A. It succeeded the Place & Turlay spice business.

Q. 98. Had you any interest in that?

A. I had an interest in both concerns.

Q. 99. You had an interest in Place & Turlay spice?

A. Yes.

Q. 100. What did that interest amount to at the time Place & Turlay spice closed out?

A. My interest in it was about $30,000—in Place & Turlay spice.

Q. 101. What became of that interest in Place & Turlay spice?

A. That interest went to special capital in the sugar-refinery.

Q. 102. That is the way, then, that you came to be engaged in the sugar-refinery business?

A. Yes.

Q. 103. The sugar-refinery was the successor of the spice concern, in which latter concern (spice) you had a large interest?

A. Yes.

Q. 104. And that interest continued from the old concern to the new—was merged in the latter?

A. That is the fact.

Q. 105. Did the interest of yourself or of J. K. Place & Company in that sugar-refinery continue to increase?

A. That was the only sum that was put in by me at that time.

Q. 106. At what time?

A. At the time the concern was formed, which was, I think, in December, 1865.

Q. 107. The sugar-refinery business was initiated then?

A. Yes.

Q. 108. Did your interest in that sugar-refinery business continue to increase after December, 1865?

A. After December I indorsed largely for them; it increased in that way.

900 Q. 109. Why did you indorse for them?

A. Because they needed my endorsement to enable them to buy goods on as favorable terms as others in some instances; and then, to raise money for them at the bank.

Q. 110. Did you have to pay these endorsements?

A. When those endorsements, or the notes on which they were made, became due at the bank, I had to provide the money to take up a large proportion of them; though J. K. Place & Co. did some.

Q. 112. In that way, was your interest in the concern affected in any way?

A. In that way my interest was increased largely.

Q. 113. As I understand you, then, prior to December, 1865, you had a large interest in a spice concern which was succeeded, in part, by a sugar firm, and the sugar-firm was ultimately succeeded by a corporation for the refining of sugar?

A. Yes, sir; that is so.

Q. 114. And your interest continued clear through until the failure of the refinery?

A. That is so.

Q. 115. How much did your house—or, you and M'r Sparkman—lose, in round numbers, by the refinery business?

A. About two hundred and fifty thousand dollars.

Q. 116. Had you, or the firm of J. K. Place & Company, any other interest outside of their regular business?

A. I had an interest in the cork concern of Sparkman, Place & King.

Q. 117. How came you to have an interest in that concern?

A. It was one of the successors of Place & Turlay, spice.

Q. 118. You knew about the cork business?

A. I am not familiar with it.

Q. 119. Was M'r Sparkman?

A. M'r Sparkman had followed it all his life, and was quite familiar with the business.

Q. 120. When, if ever, did the firm of J. K. Place & Company put any money into that cork concern?

A. I think, January, 1867, was the date that $30,000 was put into that concern.

Q. 121. Did they continue, up to the time of this failure, to put money into that concern?

A. That was put in by me personally—the thirty thousand dollars was.

Q. 122. Did the firm of J. K. Place & Company put any money into the cork concern?

A. They never put any in except by loan to the cork concern,
901 which loans were never repaid or returned.

Q. 123. They did make loans to the cork concern?

A. Yes.

Q. 124. When were those loans made?

A. Along during the year 1867—the early part of the year 1867.

Q. 125. Is that concern now solvent?

A. That concern is now insolvent.

Q. 126. When did it fail?

A. Some time in 1869.

Q. 127. How much money did either you or M'r Sparkman or the firm of J. K. Place & Company lose in that cork concern?

A. I think about two hundred thousand dollars.

Q. 128. Was it or not agreed between you and M'r Sparkman that you were to pay interest on the deficiency of your capital put in between your actual and your agreed capital—in the firm of J. K. Place & Company?

A. That was the agreement, that I was to pay interest on my deficiency; but three-quarters of that interest came back to me through the profit and loss account.

Q. 129. How were the builders paid for the erection of the 5th-avenue house?

A. Paid by check on the bank.

Q. 130. Always, or partly in money?

A. Generally in checks.

Q. 131. Where was the account, if any, of that Fifth-avenue house expenditure kept?

A. Kept in an account by itself, on the books of J. K. & E. B. Place, and of J. K. Place & Company.

Q. 132. How was the account headed?

A. Headed, "Fifth avenue, corner 47th street. J. K. Place."

Q. 133. Were your private accounts all kept in those books?

A. They were.

Q. 134. In the same manner?

A. In the same manner.

Q. 135. What was your custom in regard to the method of keeping your private accounts in the firm-books?

A. It was my custom to keep all my private accounts, with very few exceptions—no exceptions of any consequence, none but small matters—all my private accounts, with those exceptions, on the firm-books, and to keep them open until they were closed out in some way, and then balanced by my individual account. They were kept so as being more convenient, and as being more frequently before me, as I was often referring to the books at the office. As I was looking over the
902 firm-books I could see those accounts.

Q. 136. Was Place & Turlay number one kept so?

A. Yes.

Q. 137. Was Place & Turlay number two?

A. Yes.

Q. 138. Was the account of Michigan lands?

A. Yes; and corn-sugar stock, insurance stock, Susquehanna Seminary, everything that I had any interest in, of any importance whatever. I preferred having our book-keepers take care of them, to taking care of them myself.

Q. 139. You say when the venture was closed up, then the account was closed?

A. Then the account was closed by my individual account, or the individual account of the partners, where they were opened jointly.

Q. 140. How came you to increase your interest in the sugar-refinery?

A. Turlay made a mistake in his calculations of the cost of the concern—found, when it was nearly completed, that it required a great deal more money than he at first supposed, a considerable part of which was raised by discount in the banks, for which we became responsible by indorsement. Those notes that were discounted had to be taken up in part by us—or, we had to advance the money, to a large amount, to do it. In the month of April, 1867, we advanced over $200,000 in that one month to take up this paper that we had indorsed.

Q. 141. What was the order of those respective interests from the time you embarked $7,000 in the spice business?

A. Place & Turlay, spice, was succeeded by sugar, and that was succeeded by this sugar-refinery, a corporation which failed at the same time that J. K. Place & Company failed, in 1867.

Q. 142. Did E. B. Place, at any time, dispose of his interest in the sugar-refinery?

A. He sold his interest to M'r Sparkman for $30,000, in April, 1866, and in payment we gave him the note of the firm of J. K. Place & Co., payable in five years, dated back to the first of December, or to the time that we advanced this special capital that went into the concern.

Q. 143. What was the intention in antedating that note—the reason of it?

A. In order that E. B. Place should sell out his interest at ex-
903 actly what it cost him, that the interest should commence from the date of the note. It was payable annually, or semi-annually, I forget which.

Q. 144. You say the note was antedated in order to conform to the agreement that he should have the amount out that he put into the concern?

A. That was the reason of dating the note back.

Q. 145. Who was Turlay, of Place & Turlay?

A. Thomas M. Turlay, an Englishman by birth, who came to New York from Chicago, where he had been for a number of years engaged in a sugar-refinery. He died in New York in 1867.

Q. 146. How did he leave his affairs?

A. Very much embarrassed. He had largely overdrawn his account in the concern.

Q. 147. Was that one of the causes of the failure of the sugar-refinery?

A. That was one of the causes of the failure of the sugar-refinery.

Q. 148. The money actually lost in the refinery was all loaned, then, after what period?

A. I think, after March, 1867.

Q. 149. You have stated two sources of loss to the firm of J. K. Place & Co. Were there any others; if so, what?

A. They lost largely in decline or the depreciation in the value of goods, caused, in part, by the fluctuations in the gold-market.

Q. 150. Did you speculate in gold?

A. No.

Q. 151. Did M'r Sparkman?

A. He did not.

Q. 152. Nor the firm?

A. Nor the firm. M'r Sparkman lost largely in investments in oil-lands, copper-stock, gold-stocks in California.

Q. 153. When were those investments that you now allude to made?

A. I don't know.

Q. 154. What amount, in round numbers, did the firm of J. K. Place & Co. lose the first thirteen months of its existence?

A. About a hundred and seventy-five thousand dollars, ($175,000.)

Q. 155. Does it appear upon the books of the concern to have lost that?

A. It appears upon the books of the concern to have lost more than that.

Q. 156. How much more?

A. About $25,000 more; but there was a considerable error where we overpaid W. F. Weld & Co., in Boston, which was afterwards discovered and corrected.

Q. 157. How much was that error?

A. About $11,000, gold.

904 Q. 158. Any other corrections?

A. Then there were profits upon some goods that had already been bought at that time, and were afterwards realized upon.

Q. 159. That $11,000 in gold amounted to how much in currency in round numbers?

A. About fifteen thousand dollars.

Q. 160. And the profits on those goods that were afterwards realized amounted to how much?

A. The profits on the goods afterwards realized amounted to considerable more than the difference; but then there were some things went against that, so that it was about $175,000.

Q. 161. That was the actual loss of the concern during the first thirteen months of its existence?

A. Yes, sir.

Q. 162. Can you refer that loss to any particular period of that 13 months, or was it distributed over the whole 13 months generally?

A. It was chiefly in the latter part of 1866.

Q. 163. You have stated that E. B. Place left about $168,000 with the firm of J. K. Place & Co.; on what conditions did he leave it?

A. Left it there with the right to draw against it as he might need the money; we had it as bankers for him.

Q. 164. Had he any other interest in your firm of J. K. Place & Co. than this sum of $168,000 deposited with it, to be drawn at will?

A. He had no other interest in the firm than that.

Q. 165. You have said that the merchandise of the firm of J. K. & E. B. Place & Co. was sold to J. K. Place & Company; what, in round numbers, did the firm of J. K. Place & Co. realize for that merchandise?

A. It brought very nearly its cost.

Q. 166. Did it bring very nearly what they paid for it?

A. Yes, sir.

Q. 167. Did the firm of J. K. Place & Co. appropriate to the liquidation of the debts of J. K. & E. B. Place the money that was deposited with them (J. K. P. & Co.) for that purpose?

A. They did except as to Ten Broeck's and Anderson's, and that would have been paid if it had been called for. It was not called for. The parties didn't want the money, I suppose.

Q. 168. What was the form of the indebtedness to A. S. Anderson to which you have alluded?

A. It was in the form or shape of notes of the firm of J. K. & E. B

Place to the extent of $25,000, an open account of $6,000, and
905 $15,000 of the notes of J. K. & E. B Place were signed by J. D. Sparkman, as well as by J. K. & E. B. Place.

Q. 169. Why did you assign, at the time of the failure of your firm, to Burritt & Sheffield?

A. They were men of good character, and familiar with our business, more so than any other persons, and could give the requisite security. We thought them, on the whole, the most competent and proper persons whom we could select.

Q. 170. What security did they give?

A. To the amount of $320,000.

Q. 171. Did you, after that assignment, interfere in any way with the assets of the firm?

A. Never interfered in any way; I sold, as a broker, some portion of the stock of goods on hand.

Q. 168. You negotiated the sale of such goods?

A. Yes, sir.

Q. 169. What became of the Fifth-avenue house?

A. M'r's Place mortgaged it for nearly its full value; mortgaged it to buy my peace with one of the creditors, and for other considerations.

Q. 170. You refer to Phipps' attacks under the Stilwell act?

A. Yes; that was the creditor I refer to.

Q. 171. Did you have any knowledge of the transaction at the time the mortgage was made?

A. No; I was not acquainted with it at the time; it was kept from me; but I have learned it since, the particulars of it.

Q. 172. Did you and M'r Sparkman build some stables in Forty-third street during 1866 and 1867?

A. Yes; we built two stables there.

Q. 173. One of which was ultimately conveyed to you?

A. Each of us built a stable.

Q. 174. What did you do with yours?

A. I sold it to M'r's Place as part of the consideration for the thirty thousand dollar Barker mortgage which she gave on the house at 47th street and 5th avenue.

Q. 175. What was the other part of the consideration of that mortgage?

A. She received $19,500 of cork-stock of Sparkman, Place & King.

Q. 176. What was the stable put in at?

A. $10,500.

Q. 177. What did the stable cost?

A. Well, it cost, with the digging of the front lots and considerable work outside of it, about $19,000.

Q. Why, if it cost $19,000, was it sold for $10,500?

A. Because that was about all its value.

Q. 178. How do you know that was about all its value?

906 A. It was put up at auction at the same time Burritt & Sheffield put up the other at auction—at the same time they sold the Sparkman stable—and the highest bonâ-fide bid was $11,250.

Q. 179. What ultimately became of that stable?

A. M'r's Place sold it.

Q. 180. Do you know what became of the proceeds?

A. She used them up in some way.

Q. 181. What became of the cork-stock that she received as part consideration of that mortgage before referred to?

A. Well, the concern failed, and it (the stock) became worthless.

Q. 182. Then the only part of the consideration of that Barker mortgage that she realized value for was the stable part?

A. That is all.

Q. 183. What did the furniture cost in that Fifth-avenue house?

A. In the neighborhood of $25,000.

Q. 184. Where was it purchased—of whom?

A. Including the carpets, do you mean?

Q. 185. Yes.

A. Purchased of Pottier & Stymus, and the carpets of Sloan.

Q. 186. Who purchased it?

A. M'r's Place purchased it.

Q. 187. Is that the same furniture sold to Jay Gould?

A. The same in part.

Q. 188. What parts of the furniture sold to Jay Gould were not purchased for the Fifth-avenue house?

A. Some of that from Twelfth street—some of the furniture that was in and brought from Twelfth street was sold to Jay Gould with the other.

Q. 189. To whom did that furniture from the house in Twelfth street belong?

A. To M'r's Place.

Q. 190. Which she had had for a long time?

A. Yes; which she had had for a number of years; part of it a great many years; given to her by her father originaily.

Q. 191. What was the amount of furniture that went to Jay Gould which came from the Twelfth-street house?

A. I could not say. He had pictures which had been bought by M'r's Place years before. I should say three or four thousand dollars, in reply to the question asked.

Q. 192. The balance of the furniture sold to Jay Gould, besides the three or four thousand dollars' worth, was bought of Pottier & Stymus and Sloan during when?

A. During 1866.

Q. 193. What part of the year?

907 A. Perhaps in June. I think that was the time the furniture was bought of Pottier & Stymus.

Q. 194. Was the furniture made to order?

A. Yes, sir.

Q. 195. Who gave the order?

A. M'r's Place.

Q. 196. When?

A. I think in June, 1866.

Q. 197. Were any of these transfers of the lot on Fifth avenue, or the stable on 43rd street, or the expenditure on the lot on 5th avenue or on the furniture in the house on Fifth avenue made with an intent to hinder, delay, or defraud your creditors?

A. None of them were made with that intent.

Q. 198. What proportion of your estate did you, in 1865, intend to settle upon your wife?

A. Something less than half. And I designed to continue in business with the balance. The house cost more than I supposed it would.

Q. 199. Were the proceedings under the Stilwell act, to which you have referred, carried on with your connivance and consent?

A. Not at all; I opposed them with all my might.

Q. 200. Who made the memoranda in the books of your firm of the date of November 20th, 1867?

A. Well, they were made by order of the committee of the creditors.

Q. 201. Were any of them made by your direction?

A. No, sir.

Q. 202. Did the creditors employ a book-keeper to write up the books after your failure?

A. Yes, sir.

Q. 203. Were the books of J. K. & E. B. Place and of J. K. Place & Co. correctly kept, and by what method of book-keeping?

A. They were kept by double-entry by competent book-keepers, and were correctly kept, as much so as any other books.

Q. 204. How, with reference to their correctness having been impeached to any extent by the criticism of three years, since the failure?

A. It has failed, so far as I know.

Q. 205. Were the actual liabilities of James D. Sparkman and yourself, as partners or otherwise, on or about the 31st of December, 1866, three millions four hundred and ninety-three thousand dollars, ($3,493,000,) or near that sum?

A. No. We didn't owe *any* anything like that; probably we didn't owe more than a million of dollars.

Q. 206. *Q.* How came you to have so large a gold-account on your books?

908 A. We bought our goods for gold and sold a great many of them for gold.

Q. 207. Did your house carry a large amount of gold at the time they were in business?

A. Yes; we calculated to carry as much borrowed gold as we had stock on hand.

Q. 208. Why did you do that?

A. Because we sold for gold sometimes, and sometimes for currency. When we sold for currency, we bought gold; when we sold for gold, we didn't buy gold, we sold gold. So that our business was designed all the time to be kept on a gold basis, and to be maintained as a strictly mercantile business. The object in borrowing gold instead of buying it was so that we might not be speculating in gold. If we sold a lot of goods to a party for currency we based it upon the price of gold at the time; and the legitimate way for us to do was to immediately buy the gold that the currency would buy, which was our practice—on the day when we sold goods for currency we bought the amount of gold that that currency would buy.

Q. 208½. And this method of procedure made your profits the legitimate fruits of merchandise?

A. This method of procedure made our profits the legitimate fruits of merchandise and enabled us to avoid—as we desired to avoid—speculating in gold.

Q. 209. How did that system work—advantageously or otherwise?

A. It worked admirably a while, until the large proportion of merchants got into it, and then the brokers took advantage of the fact of so many's wanting to borrow gold, to charge them for lending that gold. The merchants put up currency on the gold, and were compelled to pay interest on the gold besides; so that it compelled them to pay double interest and a great deal more besides; because it ran from 1-16th of one per cent. a day to half of one per cent. a day—the charge made against them; and in that way the merchants were out of pocket; we were out of pocket a large amount of money—lost a great deal in that way—by being compelled to pay for borrowing gold. If we had bought the gold instead of borrowing it, we would have been subject

909 to the fluctuations of the gold-market all the time, and it would

have been speculating. Carrying our goods on a gold basis—which was our legitimate business, as we bought all our goods for gold—we were compelled to borrow the gold and pay these large charges that the brokers sometimes made.

Q. 210. I understand you to say, then, that for a while the system worked in your favor, and then turned against you?

A. Yes; in our favor for a year, and then turned against us. After that period, subsequent to our failure, the charge became so heavy for borrowing gold that the merchants turned right out and bought their gold, and the result was that the brokers had to pay for the currency, and it has been so for two years, until now again, in view of the anticipated decline in gold on the termination of the European war, they are now charging on borrowed gold again, so many are going short of gold, thinking it will decline when this war is brought to a close.

Q. 211. It ultimately cost you, before you failed, how much, to carry your gold?

A. It cost us, in 1866, $150,000—just that extra charge. The bulk of our losses were mostly in that way in 1866.

Q. 212. Had M'r's Place, your wife, any reason to believe that any of the transfers to her or in her favor were made when you or your firm was insolvent, or in contemplation of insolvency, or that they were made in any way to hinder, delay, and defraud creditors?

A. No.

Q. 213. Or in fraud of the bankrupt act?

A. No.

Q. 214. Did you direct or know of any of the payments made by J. K. Place & Company on the 19th day of November, 1867, of several small sums to five or six depositors?

A. No; not any of them.

Q. 215. Were you held in custody in the Phipps proceeding?

A. I was.

Q. 216. Actually incarcerated?

A. No; I was arrested.

Q. 217. Was the transfer to Burritt & Sheffield made or intended to be made to hinder, delay, or defraud creditors, or to evade the provisions of the bankrupt act?

A. No.

Q. 218. Was Jane C. Place a creditor of your firm to the amount of $54,000, or thereabouts?

A. About that amount.

910 Q. 219. And was Susan A. Place a creditor for upwards of $9,000?

A. Yes, sir.

Q. 220. Was there any understanding or agreement between yourself and Burritt & Sheffield, or any intention on your part, that Burritt & Sheffield should not claim the settlement upon your wife?

A. No.

Q. 221. Why was the stock account put in the form it was put in if these respective sums had not been paid in?

A. In order to show to the bookkeepers how the interest should be charged at the end of the year, and how the profits and losses should be divided; no other purpose.

Q. 222. What was the object of the trial-balance of 1866?

A. It was merely to show the correctness of the figures made by the bookkeeper.

Q. 223. Does that, or can it be made to, show the standing of the firm at that time?

A. No, sir.

Q. 224. Do you remember how M'r Sparkman's account was closed as to Place & Turlay, Special No. 2, if that account was not closed on the books?

A. I suppose that account was charged, and M'r Sparkman's account credited, with the sum that E. B. Place and myself agreed to give him for his interest in the concern.

Q. 225. That would have the same effect as to his interest in the old firm as if the account had been regularly closed?

A. The same effect precisely.

Q. 226. State whether or not the cork concern was a valuable asset up to the time of its failure?

A. I know I regarded it so at that time.

Q. 227. It is now insolvent, I believe?

A. Yes; supposed to be.

Q. 228. What did the stone-contract, which has been put in evidence as the first exhibit, run up to, before the house was completed?

A. Well, I believe several thousand dollars more than the original contract.

Q. 229. Didn't it amount to about $27,000 in all?

A. I believe it did.

Q. 230. How much did the house and furniture sell for to Jay Gould?

A. One hundred and fifteen thousand dollars.

Q. 231. After the accounts of the old firm were balanced, November 30, 1865, was the balance carried forward on the books of J. K. & E. B. Place as the property of J. K. Place & Co.?

A. No.

Q. 232. Did M'r Sparkman pay any money into the concern
911 during the last year of its business?

A. Not that I know of.

Q. 233. If he did it would appear on the books?

A. The books would show the fact, if he had done so.

Q. 234. Did he ever loan any money to the firm to help it out of its difficulties?

A. No; he drew money out of the firm, that helped it into difficulties.

Q. 235. Were any losses of the firm of J. K. Place & Co. concealed, out of regard to M'r Sparkman's feelings?

A. Never.

Q. 236. Were any concealed from him?

A. Never concealed anything from him at all, out of regard to his feelings, or for any other purpose.

Q. 237. Did you remove, or were you cognizant of the removal of, the books of J. K. Place & Company after their failure, for the purpose of concealing them from anybody?

A. I didn't remove them, nor order them to be removed.

Q. 231. Did the firm of J. K. Place & Co. exchange paper with the Place Sugar Refinery; if so, to what amount?

A. Never, but in one instance, and that was for about nine thousand dollars, for the accommodation of the sugar-refinery.

Q. 239. Had the corporation of Sparkman, Place & King any capital between November, 1867, and November, 1869, other than that borrowed from James K. Place & Co.?

A. They had a capital of their own.

Q. 240. How much?

A. About a hundred and eighty thousand dollars, ($180,000.)

Q. Besides their borrowed money?

A. Yes, sir; excepting what they may have lost, if any.

Q. 241. "If the Front-street property was stricken out of the assets without striking out the items to the credit of E. B. Place, bond and mortgage, $78,600, and the amount to the credit of J. P. Giraud, j'r, so that the concern still appeared to owe these two amounts, then would not the surplus of the concern and the balance to the credit of the partners be affected to the extent of a hundred and twenty thousand dollars?"

A. Neither of those accounts belonged in any sense to that concern; if J. P. Giraud, j'r, and E. B. Place had been charged with $120,000—that is, $78,600 to one and $41,400 to the other, and the Front-
912 street property credited with that sum, it would have extinguished all these accounts. J. K. Place & Co. had nothing to do with either of these accounts; they were kept on the books of the concern for my convenience alone; when the rents were collected of that building, they would naturally be credited to that Front-street account, and the interest due to J. P. Giraud and E. B. Place paid out of the rents would have gone to the credit of J. K. Place's individual account.

Q. 242. Then, as I understand you, that is essentially a private account?

A. Yes, sir; it is a private account entirely; the concern had nothing to do with it.

Q. 243. To whom were the bills rendered by the workmen on the Fifth-avenue house made out?

A. To J. K. Place.

Q. 244. And paid by whom?

A. Paid by J. K. Place.

Q. 245. With what moneys?

A. Moneys drawn from his account in the firms of J. K. & E. B. Place and J. K. Place & Company.

Q. 246. Was there an account in your firm-books of premium on specie?

A. Yes, sir.

Q. 247. Will you explain that account?

A. We used that account to keep a memorandum of the premiums we had paid on gold and the premiums we had received on gold—paid premiums on gold when we bought gold, and received premiums on gold when customers paid their bills in currency, which they bought in gold; and the premiums in each case were carried to that premium account. It would have been entirely proper to have carried those premiums to merchandize account at the time, where they belonged.

Q. 248. Then it was essentially a part of the merchandize account?

A. Yes, sir.

Q. 249. Does the credit item of this account, found in the trial-balance, represent a liability of the firm?

A. No.

Q. 250. Was the firm debtor to E. L. Roberts for services in reference to the Fifth-avenue property?

A. No.

Q. 251. Was the money which was paid out on those bills ever intended by you to be put into the firm of J. K. Place & Company, so as to become a part of the assets of that firm, without regard to these house obligations?

A. No.

913 Q. 252. Your intention was, when you went into the firm of J. K. Place & Company, to pay all your existing obligations and go into business with the balance of your estate?

A. That was my intention.

Q. 253. "If the aggregate of credits to premium on specie amounted to $350,000, at a given period, that would indicate the amount of money you would have to expend in order to raise the specie to meet that specie liability, and therefore it would be among the liabilities of the concern," would it not?

A. No, sir; that is a mistake. It would not indicate the amount we would have to spend. It would not indicate the amount required to meet the specie liability. It had no reference, particularly, to that.

(The plaintiffs' counsel objected, in due season, to each and every of the above questions as leading, as argumentative, as calling for hearsay evidence, as asking for the contents of a written instrument or written instruments not produced, as requiring the witness to state his judgment, opinion, or belief, instead of his knowledge or recollection of facts, as assuming facts not proved or testified to, as involving questions of law, as irrelevant, and as otherwise incompetent and inadmissible, and the objections are, by consent, here noted, instead of being noted in connection with each question.)

Cross-examination:

Q. 1. Will you look at the several account-books now shown you (pointing to books on desk) and see if you recognize them; and, if you do, state what they are?

A. There is a journal of J. K. & E. B. Place, marked "J. K. & E. B. P.;" cash-book, marked "J. K. P. & Co.;" cash-book, marked "J. K. & E. B. P.;" ledger, marked "J. K. & E. B. P.," and journal marked "J. K. P. & Co." These books were actually used by J. K. & E. B. Place or by J. K. Place & Co. J. K. & E. B. Place and J. K. Place & Co.—both these firms—used the ledger produced.

Q. 2. Is there any place in that ledger which shows your interest December 1, 1865, in the assets of J. K. & E. B. Place; if so, where is it?

914 A. It appears in my individual account.

Q. 3. Will you please turn to it and show us what it is, and how it shows the extent of your said interest?

A. (Referring to page 2 of ledger.) There is a balance brought down that date which shows $227,301.62. That represents the amount which I would have been entitled to receive out of the assets if the assets had been converted into cash at their face and the debts paid. That is what it is intended to represent. The account at page 800 of the ledger, headed, "Place & Turlay, Special No. 2," represents money drawn out by myself and E. B. Place, and invested for our own benefit. The account is as follows:

Place & Turlay.—Special No. 2.

(In pencil:) E. B., 30; J. K., 30.

1865.			D'R.
Nov. 20	To cash	301	$60,000 00
" 30	" interest	253	116 67
1866.			
Dec. 31	" "	89	2,283 83
			$62,400 50
1865.			C'R.
Dec. 1	By E. B. Place	21	$30,000 00
1866.			
Dec. 31	" balanced		32,400 50
			$62,400 50
1866.			D'R.
Dec. 31	To balance		$32,400 50
1867.			
June 1	" sundries	137	3,150 00
Nov. 20	" interest	179	2,117 50
	" B. payable	186	30,000 00
	" E. B. Place	177	1,015 00
	(In pencil:)		$68,686 00

(In pencil:) J. K. Place owns and assumes $\frac{3}{4}$ of above account.
J. D. Sparkman " " $\frac{1}{4}$ " "
Above note is for $30,000 at 5 years. 1 Dec., '65.

915 Fifteen thousand of that was invested for my own benefit about ten days before the 1st of December, 1865—on the 20th November, 1865. The total investment represented by that account is thirty thousand dollars, ($30,000.) The item, "cash, $60,000," means that J. K. and E. B. Place invested $60,000 in Place & Turlay, Special No. 2. That sum did not continue so invested till after December 1, 1865. $30,000 was charged to E. B. Place's account, so that there was only $30,000 remaining. J. K. and E. B. Place charged it to E. B. Place's account on the 1st of December, 1865.

Q. 4. Haven't you sworn, on your direct examination, that that was charged to E. B. Place's account in April, 1866?

A. Well, it was charged here from the first of December, 1865.

Q. 5. I want the facts, not constructions. Hav'n't you sworn that that was charged to E. B. Place in April, 1866?

A. I don't recollect what I have sworn to.

Q. 6. Do you mean to say, without any reference to any charge being made, that J. K. and E. B. Place got back any part of that sixty thousand dollars before the first of December, 1865?

A. The money was there, to the credit of E. B. Place's account, at that time, and continued so, and is charged in his account; and appears by that account to have been charged Dec. 1, 1865.

Q. 7. Will you swear that it was charged at that time?

A. The books will show. I didn't make the entry.

Q. 8. Do you swear that you believe any such entry was made on the first of December, 1865?

A. No.

Q. 9. Do you believe it was made at that time, or do you believe the contrary?

A. I didn't make the entry.

Q. 10. Do you believe that any such sum was charged to E. B. Place on the first of December, 1865?

A. I should suppose not.

Q. 11. How was that $60,000 invested?

A. Invested as special capital in Place & Turlay. At the time I invested, $30,000 was for my benefit. That $30,000 remained invested in my name up to the first of Dec., 1865. None of it was charged to my personal account on the first of December, 1865. If it had been
916 charged, my interest in that firm would have been reduced. It would have reduced the balance to my credit to about $197,000.

Q. 12. Then is it true that $227,000 represented the amount to which you would have been entitled if the assets of the firm had been converted into cash and the debts paid?

A. No; not unless we called that the account of the assets, which it is not. The account at page 86 of the ledger headed "Fifth-avenue property, corner of 47th street," represents money drawn from the firm to build that house for the benefit of my wife. I intended to live with her; I was expecting to.

Q. 13. Then didn't you intend it for your own benefit?

A. I intended it for the benefit of my wife.

Q. 14. Is that the only answer you can give?

A. That is the only answer I can give. Up to the first of December there had been invested in that account $10,028.35.

Q. 15. Had that been charged to your personal account at that time?

A. It had been charged in that account. If it had been charged to my personal account, in addition to the investment in Place & Turlay, special, my interest in that firm would have been reduced just so much, that is, to about $187,000. The account on the ledger, page 87, under the head of "Corn Exchange Insurance Company, J. K. Place," represents money drawn out and invested in my own name and for my own benefit. Up to December 1, 1865, there had been invested $3,596. If that had been charged to my personal account my interest would have been reduced to so much less. The account on page 49 of the ledger under the head "Humboldt Insurance Company, J. K. Place," represents money drawn by me from the concern and invested in my own name and for my own benefit. Up to the first of December, 1865, there was so invested $1,362 that had not been charged to my personal account. The account at page 52 of the ledger, under the heading "Metropolitan Bank, J. K. & E. B. Place," represented an investment of which three-eighths was invested for my own benefit. That three-eighths, up
917 to the first of December, 1865, amounted to $2,989, which was my proportion in J. K. & E. B. Place. No part of that had been charged to my personal account up to the first of December, 1865. I did not put into the capital of J. K. Place & Co. either the Fifth-avenue property or the investment in Place & Turlay, or the investment in the Corn Exchange Insurance stock, the Metropolitan Bank stock, or the Humboldt Insurance stock.

Q. 16. How do you reconcile the fact that the books show your interest on the first of December, 1865, to be $227,000, while your actual in-

terest was less by the amounts which you have stated, with your testimony that your books were kept correctly?

A. It is my personal account on the ledger of the firm, and it is there entirely correct. I didn't charge myself with the investments to my personal accounts, so that our books would show the actual diminution of my interest, because it didn't suit my convenience to have it so. The books were kept for my convenience and not for the benefit of the public.

Q. 17. Is there any place on your books which showed that on the first of December, 1865, your actual interest in the assets was less than $227,000? If so, please point it out.

A. Every account—the accounts taken together—show what my interest was in it. It appears upon the books what my interest in Place & Turlay was. It appears on the Place & Turlay account—I think so. "E. B., $30,000; J. K., $30,000." I suppose those initials were written there at that time. The entries themselves would show, even if the wording of the account did not. (Witness refers to cash-book of J. K. & E. B. Place, under date of November 20th, 1865, page 301, the entry of cash paid Place & Turlay, special number two, paid in as special capital by J. K. Place, $30,000; by E. B. Place, $30,000.) That was not charged to my personal account because we preferred to keep the accounts for our own convenience, and not for that of others. I preferred to keep it open because it was an investment of a considerable amount jointly by E. B. Place and myself, and we preferred to keep it open because we were in the habit of looking over the ledger and
918 our attention was called to it as we were looking over the ledger on other business matters.

Q. 18. Would not your attention have been called to it just as well if it had been charged to your personal account as when it was charged to Place & Turlay special No. 2?

A. No; it would have been lost sight of entirely. It would have involved the necessity of keeping another private set of books and keeping them myself, and I preferred to have our book-keeper take that trouble, and to save myself that trouble.

Q. 19. The showing on your personal account that you had an interest of $227,000 on the 1st December, 1865, was that true or false?

A. Well, there was nothing false about it.

Q. 20. Was it true?

A. It was true, if you choose. It was a true and correct account, and just as it should have been kept.

Q. 21. Was your interest $227,000?

A. I suppose it would hardly be considered so, if you took those accounts.

Q. 22. Was it $227,000? That is a plain question.

A. That is a sufficient reply to that question, I think.

Q. 23. Do you mean it was not $227,000?

A. My interests outside of the concern were liable for all the concern's debts, and substantially the concern had that amount of money belonging to me there, or what represented it. If those assets had been sold—or rather those accounts, the Corn Exchange Insurance, the Metropolitan Bank, the Humboldt Insurance, the Place & Turlay No. 2—if those interests had been sold and the money put into the concern, it would have made my contribution there so much; and I was personally liable to the extent of what appeared to the balance of my account, what was actually due me by the concern, and for this property also; so that, although it may not have represented the amount of capital I had in, it represented

the capital I had in and what I had invested outside which could have been converted into money and put in at any time.

Q. 24. In other words, the $227,000 represented what you had in and what you had out, both?

A. Yes, sir.

Q. 25. And on its face did it purport to represent what you had
919 out or did it purport to represent what you had in?

A. Any intelligent book-keeper that might have looked at the books would have understood it in a few moments.

Q. 26. Would any intelligent book-keeper, on looking at your personal account, have supposed that you had $227,000 in the aggregate there?

A. No intelligent book-keeper would have looked at my personal account to find out how much I had there without looking through the books.

Q. 27. Your personal account don't represent what you had in the concern?

A. It, with others, represents what I had in.

Q. 28. Why would no intelligent book-keeper have looked at your personal account without looking through the books?

A. No intelligent book-keeper would have looked to see what I had in the concern without looking through the books.

Q. 29. Then your personal account does not represent what you had in the concern, does it? If it does, why would not an intelligent book-keeper have looked at your personal account to ascertain that fact?

A. It is not intended to represent precisely what I had in the concern.

Q. 30. If it does not, you can say so; that is what I ask you. That is all. Does it represent what you had in the concern?

A. No; nor does any other personal account of any merchant in New York represent exactly what he has got in the concern, because in one day after the first of January, when it was made up, he might lose, which would ultimately reduce it so much; or, he might make a great deal of money, and thereby increase it so much.

Q. 31. When was the balance of $227,000 put down to the credit of your account?

A. On the first of December, 1865.

Q. 32. Does that represent what you had in the concern then?

A. Not strictly speaking.

Q. 33. Does it represent it within $50,000, taking into account those investments that you have testified to?

A. It is intended to represent it within five cents.

Q. 34. Does it represent it within $50,000?

A. I cannot reply to it any more directly than I have answered it.

Q. 35. I ask you if it does in fact represent your interest in the
920 concern within $50,000?

A. It would represent it within five dollars at that moment.

Q. 36. Then you had $227,000 in the concern then, did you?

A. Including those accounts.

Q. 37. Which you had out of the concern?

A. Yes; including those stocks, &c., it represented what I was worth, as it appeared on the books of the concern.

Q. 38. Now, were those investments your property or not your property?

A. They were my property.

Q. 39. Then why do you say that they were embraced in figures which show what the concern had?

A. It is well enough to state here that the books of a mercantile con-

cern—at least our books, I know—were not, are not, kept for the public, but for the convenience of the proprietors. That was our way of keeping them; and if we were not insolvent, and anybody asked us that question, we would have considered it impertinent.

Q. 40. Considering that you are insolvent, and have been so for over three years; that you made a voluntary assignment to Mess'rs Burritt & Sheffield, and afterwards became bankrupt, and that you have now offered yourself voluntarily as a witness and been examined, and thereby invited cross-examination, do you consider my question impertinent?

A. Not at all; I didn't mean to say that I did; I didn't wish to intimate that I did. As I said before, a merchant's books are not kept for public inspection.

Q. 41. If you did not contribute to the capital of J. K. Place & Co. the Fifth-avenue property, the Place & Turlay investment, the Corn Exchange Insurance stock investment, nor the Metropolitan Bank, nor the Humboldt Insurance stock investment, how much did you, in fact, contribute to the capital of J. K. Place & Company?

A. I don't know; it is too much trouble to count over all these figures.

Q. 42. Did you contribute $227,000, less the amount of those investments?

A. Except the Fifth-avenue property, which was designed to be given to my wife, and was given to my wife.

Q. 43. Did you contribute $227,000, less the amount of those various investments?

A. Yes.

921 Q. 44. That made about $177,000, didn't it?

A. Yes; and all I had besides was liable for the debts of the concern, and was substantially in the concern.

Q. 45. That is not what I asked you. I asked you once if you contributed those items to the capital, and you have answered no.

A. I don't know about that; I contributed all I had to the concern.

Q. 46. How much was that?

A. $227,000, except what I paid on the Fifth-avenue property.

Q. 47. Did you contribute the Humboldt and the Corn Exchange Insurance stock and the Metropolitan Bank stock?

A. That was all liable.

Q. 48. Did you contribute it?

A. I don't understand your meaning; therefore I do not choose to commit myself by answering what I do not understand. I say all I was worth was liable for the debts of the concern.

Q. 49. Did you consider those items the property of J. K. Place & Co., or your individual property?

A. They were my individual property. I used them by way of obtaining loans for the concern. They had the use of them. The price that I and M'r Sparkman paid for the merchandise of J. K. & E. B. Place was about the market-price at the time. There were a good many articles. They are the prices of the goods named in the inventory.

Witness refers to the journal of J. K. and E. B. Place, under date November, 1865, page 258, at the following entry:

12 MERCHANDISE.

16 *To profit and loss*, 1865.

For am't of stock on hand Nov. 30, per inventory, gold..	$996,367 19
Add premium on the above @ 48 p. c't.....	$478,256 25
	$1,474,623 44

That shows the price at which M'r Sparkman and myself bought the stock. I and M'r Sparkman, two of the partners in J. K. & E. B. Place, bought the entire stock of merchandise.

Q. 50. Show the entry of that sale on your books, if there is such a one.

A. It was sold in various amounts.

Q. 51. I ask you to show the entry on your books of that sale.

A. That entry shows the sale.

922 Q. 52. How does it show that you and M'r Sparkman bought that merchandise? How does it show that it ceased to be the property of E. B. Place?

A. As the books of J. K. & E. B. Place were used in the business of J. K. Place & Company, this was simply brought forward to show that that was purchased.

Q. 53. Is there any entry on your books that shows that you and M'r Sparkman bought that merchandise? and, if so, produce the entry.

A. That entry shows it.

Q. 54. The one in the journal?

A. Yes; and carried to the ledger account and brought down in the account of merchandise.

Q. 55. Is there any other entry on the books which shows that you and M'r Sparkman bought that merchandise?

That is all the entry I find; I don't see any other now.

Q. 56. Is that your way of keeping books, when partners buy one and one-half million of property of a concern and take it to their own account?

A. Yes; that is correct enough.

Q. 57. How much of it did you buy?

A. The whole of it.

Q. 58. You, personally?

A. No; J. K. Place & Co.; my portion was three-fourths; my proportion of that purchase amounted to $1,105,967.58. That sum was not charged to my personal account anywhere, nor should it be, because it would not be proper to keep it so. Books are kept for the purpose of entering the transactions of the firm with outside parties, and the transactions of the partners with each other. The firm of J. K. & E. B. Place had a transaction by which I and M'r Sparkman became the owners of merchandise. It was not proper to enter that transaction on the books to our separate accounts, because we bought it jointly; we entered it into the merchandise account jointly.

Q. 59. Produce the entry.

A. There it is.

Q. 60. The one you just read?

A. No; from the ledger; that is the same, on the merchandise account of J. K. Place & Co. That is to say the merchandise account is debited with the amount of the inventory. That is it.

Q. 61. And do you call that an entry showing that you and M'r Sparkman bought it?

923 A. Yes; we had articles of agreement showing that we did.

Q. 62. Where are they?

A. You got them printed, I believe.

Q. 63. Do they show that you bought that merchandise?

A. That we commenced business at that time. I didn't say they showed we bought the merchandise; the articles of agreement show that we went into business at that time together.

Q. 64. I want to know if that is the only entry or evidence you can refer to to show that you and M'r Sparkman bought that merchandise?

A. That is all I see now; that is sufficient for me; I do not want any more.

Q. 65. Is that all the written evidence that you know of to show that you and M'r Sparkman bought the merchandise?

A. That is all I see now, on the books.

Q. 66. Is it all that you know of?

A. I don't know of anything more than is on the books.

Q. 67. Did you, about the 30th of November, 1865, take about $35,000 worth of bonds out of the concern?

A. Some time in November, 1865, we divided some bonds, and I took a portion, and they were given to my wife.

Q. 68. Were they charged to you?

A. Yes.

Q. 69. Was that entry proper?

A. I suppose it was properly made.

Q. 70. Why?

A. I suppose the account was open as a bond account; and having divided those bonds it was proper that they should be charged to our accounts.

Q. 71. Having the merchandise account open, and having divided the merchandise, why wasn't it proper to make an entry of it on the books?

A. That is a different thing.

Q. 72. If you had been charged with that $1,105,000, assuming that your interest, irrespective of that charge, was $227,000, how much would you have owed J. K. & E. B. Place?

A. I never heard of such a thing myself; I don't know that I want to go into such figures; we each took stock ourselves.

Q. 73. (Repeated.)

A. J. K. Place & Co. bought the merchandise; I didn't buy it. Three-fourths of it was mine. J. K. Place & Co. bought it, and they were liable for it. I was not J. K. Place & Co.; I was J. K. Place. I was one of that concern. The firm owed the whole of the debts; that is, if I

924 could not pay my three-fourths, and M'r Sparkman could, he would have to pay the whole of it. If, against my $227,000, I had been charged the $1,100,000 for three-fourths of that merchandise, I should have appeared to owe J. K. & E. B. Place that sum, less the amount that was due me by the concern. If it had been charged to J. K. Place & Co., J. K. Place & Co. would have commenced business with an indebtedness to J. K. & E. B. Place of $1,474,000, less the amount that would be due by J. K. & E. B. Place to J. K. Place & J. D. Sparkman. J. K & E. B. Place did not owe anything to J. K. Place & Co., as a firm. J. K. Place & Co. sold that merchandse to various people.

Q. 74. Did you put it in as a part of the capital of J. K. Place & Co.?

A. I suppose a part of it might be regarded so.

Q. 75. If you did not put it in as a part of the capital of J. K. Place & Co., what did you do?

A. What is the use of asking that question?

Q. 76. To get an answer.

A. There is no "if" about it; there was only one way that it went. We put in as much of it as our actual capital amounted to. It was all put into the concern of J. K. Place & Co.

Q. 77. Why do you swear that you did not put it into the capital of J. K. Place & Co. $600,000?

A. I have not sworn anything of the kind in this examination.

Q. 78. Did you put in that much?

A. No; I never intended to.

Q. 79. If you owned three-fourths of that stock of merchandise, and if you put it in the capital of J. K. Place & Co., how do you reconcile that statement with the one that you didn't put in $600,000?

A. I don't know what one has to do with the other. I put into the capital of J. K. Place & Co. my share of the merchandise. There were certain debts to be paid out of it that we had to pay for J. K. & E. B. Place; and they handed over this property to us. We bought it and fixed a price upon it, and we agreed, out of the proceeds of it, to pay certain debts of J. K. & E. B. Place, which were owing. I did say that I and M'r Sparkman bought that property; that is true.

Q. 80. What was the extent of your interest in it?

A. I can't go into figures. If there had been a loss in it of
925 $50,000 I would have lost three-fourths of it. I don't know that I could be considered as strictly owing it, because I had to pay debts on it; I didn't sell the 5th-avenue property to pay debts out of it.

Q. 81. Didn't you have to pay debts out of the 5th-avenue property?

A. What do you ask such questions for; it is nothing like that at all.

Q. 82. Didn't you owe debts to pay out of the 5th-avenue property?

A. No; I hadn't any debts to pay out of the 5th-avenue property. I was an owner of three-fourths of the merchandise; I bought it. I didn't say I contributed it to the capital of J. K. Place & Co. I sold the property, and paid certain debts that J. K. & E. B. Place owed out of it, and various other things were done with it. By virtue of the sale it became the property for the time being of J. K. Place & Co.

Q. 83. How do you reconcile that with your statement that you didn't put $600,000 in as your capital?

A. I don't know that they have anything to do with each other. It don't follow that the $600,000 have got anything to do with it.

Q. 84. In your direct examination a question was asked you which assumed that J. K. & E. B. Place deposited money with J. K. Place & Co.; what do you mean by depositing money with J. K. Place & Co.?

A. The money that J. K. & E. B. Place had on hand was deposited with them. It was transferred to their account after a while; I guess there was about all of the bank accounts went on for several weeks, and the debts paid out before it was transferred to J. K. Place & Co. It would be a very confused account for me to go over. On the first of December, 1865, I entered into an agreement which said that I agreed to put in $600,000 to J. K. Place & Co., and I was under contract to the amount of 50 or 60 thousand dollars for the 5th-avenue property, and I had an interest in the firm of J. K. & E. B. Place of about $170,000, and the 5th-avenue property, and the Corn Exchange stock, and the Humboldt stock, and the Metropolitan Bank stock, and the investment in Place & Turlay. That is a true statement of my situation. I entered into
926 such an agreement, but with a private understanding between M'r Sparkman and myself that I was to do no such thing, but to pay in what I had. I was under contract for 50 to 60 thousand dollars

on the 5th avenue house. That is so. It was a part of my private understanding with M'r Sparkman that my share of the profits in the business should go towards the making up of my capital; it was agreed that I should put it in when I made it.

Q. 85. Out of what sources did you expect to meet your contracts for the 5th avenue property?

A. Out of the money that was due to me by J. K. & E. B. Place, and what I had in the concern of J. K. & E. B. Place. I mean out of the $170,000. It was out of that and other property which I had.

Q. 86. What other property?

A. I haven't it clearly defined in my mind where it should come from. But I was to pay it out of what I was worth. I did not intend that my creditors should get their money out of the 5th avenue property. I intended that my wife should have it clear of my creditors, but I intended to go on and spend my own money on that house. I intended to spend my own, but I did not intend that my creditors, or any of them, should get their money back out of that property. I intended that my wife should hold it independent of them, because I supposed I was abundantly able to pay all my debts and have a nice sum left beside. I had no clear intention about the thing, because I think I didn't intend that they should have that. I intended that my profits should go into the partnership.

Q. 87. And you intended that the cost of your house should come out of the capital?

A. I intended to pay for the cost of the house out of what I had, and what I might make. I consider that what I had was a part of the capital.

Q. 88. And you did not intend that your creditors should get any money out of the house?

A. My creditors were all paid that I owed at that time.

Q. 89. Were they?

A. Yes.

Q. 90. How much did J. K. & E. B. Place owe at that time?

A. I don't know.

Q. 91. Look and see.

A. I can't tell you.

Q. 92. Do you swear that you can't, by looking at the books,
927 tell how much J. K. & E. B. Place owed?

A. I prefer to refer that to the book-keeper.

Q. 93. I prefer to refer that to you. Will you or will you not look at the books and tell how much J. K. & E. B. Place owed?

A. I will take a glance at them, and if I can tell in a moment I will do so.

Q. 94. You said all your debts were paid.

A. Yes. I suppose I should say about $1,000,000, without going into figures.

Q. 95. I want you to look and ascertain.

A. I don't know of anything that has not been paid.

Q. 96. I ask you how much J. K. & E. B. Place owed at that time.

(Witness refers to the book in which the trial-balance is taken off, to refresh his memory, and to see if there is any one account which will enable him to answer the question.)

WITNESS. Now, the trial-balance, if I did that, would require a great deal of figuring, and I would have to refer to the books and see if it was correct.

Q. 97. Are you unable to state what the indebtedness of J. K. & E. B. Place was?

A. I will say that it was about $1,000,000.

Q. 98. Can't you state nearer than that?

A. No; not just now.

Q. 99. Won't your books show?

A. They will in various accounts and entries on the books.

Q. 100. Will they or will they not all appear—that is, the debts—on the trial-balance?

A. I don't know that they will.

Q. 101. Is it or not intended that the trial-balance will show all the liabilities?

A. Not at all.

Q. 102. Do you say that it is intended that there are liabilities of the concern which shall not appear on the trial-balance?

A. Why, certainly.

Q. 103. What are they?

A. There is not more than one time in ten that they will put the names down at all. They put the figures down instead of the names. This trial-balance contains the names.

Q. 104. Do you know of any debt of J. K. & E. B. Place that does not appear there?

A. I have not looked to see.

Q. 105. Do you believe there are any?

A. Oh, yes. I think very likely there are. I don't know what. I have not looked at it. The trial balance is intended to show the correctness or incorrectness of the figures on the books, and more frequently
928 the trial-balance is taken off without any names to it than with the names. It is a mere check on the posting of the books. It is intended to contain every balance in the ledger. It is a transcript of every balance in the ledger, but not showing every asset and every debt. The assets appear on the ledger, but the liabilities do not. They would be in various bills and documents; bills of purchase. I mean to say that our ledger was so kept as not to show our liabilities.

Q. 106. Do you mean to say that in correct book-keeping the ledger don't show the liabilities of the concern?

A. Exactly; we don't open accounts with those people that we buy goods of, and therefore the ledger does not show what we owe to people.

Q. 107. Does it show what you owe?

A. It does not show what we owe to any individual.

Q. 108. Does it show what you owe?

A. It does when the books are posted; the merchandise account shows. When we bought merchandise—say of Brown Brothers & Co.—we did not credit it to Brown Brothers & Co. The account was kept on the invoice books, and when we paid Brown Brothers & Co., merchandise was charged to Brown Brothers & Co. The transaction appears in the books—the invoice books. It don't appear on the ledger.

Q. 109. Don't the liability appear on your books; that is, the fact that you owe that much money?

A. No, sir; I have said so three or four times.

Q. 110. You have answered that it don't show to whom it is due; do you know of any liability of J. K. Place & Co., or J. K. & E. B. Place, or have you any reason to believe there was one, which does not appear on that trial-balance?

A. Oh, yes.

Q. 111. Name it.

A. I don't know any thing about that trial-balance, what it shows.

Q. 112. I asked you to name the indebtedness which you said did not appear on that trial-balance.

A. I don't know anything about it.

Q. 113. You said that you believed there was an indebtedness that did not appear on that trial-balance?

A. There are bills payable; it does not indicate who we owed bills payable to.

Q. 114. I asked you about the amount of the liability. I want
929 to know what is the indebtedness of J. K. & E. B. Place, that don't appear on that trial-balance?

A. I don't know anything about the trial-balance.

Q. 115. Why did you say, if you did not know anything about it, that there was an indebtedness that did not appear there?

A. Because it is so easy for an indebtedness to be, without being indicated what it is.

Q. 116. Is there any indebtedness of which the amount does not appear, or is not embraced on that trial-balance?

A. It is embraced on the books somewhere. I don't know about the trial-balance.

Q. 117. Do you know of any indebtedness of which the amount is not embraced in your trial-balance?

A. I don't know what is in that trial-balance.

Q. 118. (Repeated.)

A. As I have not examined that trial-balance, I cannot tell you.

Q. 119. Is there any purchase of merchandise that did not appear on your trial-balance or the amount of which did not appear on your ledger?

A. I suppose that everything we owe, every transaction, appears on the books.

Q. 120. Does it appear on the ledger?

A. Not everything on the ledger.

Q. 121. What class of items does not appear on the ledger?

A. Where we paid a bill, and we charged it to merchandise.

Q. 122. Don't that appear on the ledger?

A. The figures would appear there; but it is merely merchandise.

Q. 123. Why did you swear it didn't appear on the ledger?

A. Because the indebtedness does not appear on the ledger.

Q. 124. Do you mean to swear that any indebtedness due by your firm at any given period did not appear on the ledger?

A. I do.

Q. 125. Specify what that indebtedness was?

A. Every day of every year that we were in business we paid bills that did not appear on the ledger, excepting in the merchandise account.

Q. 126. Don't they appear in the merchandise account on the ledger?

A. What I call appearing on the ledger is an open account that shows an indebtedness to somebody.

Q. 127. I tell you again that it is not my inquiry whether your ledger shows to whom your indebtedness was due, but doesn't it show the amount of your indebtedness?

A. In figures the amount does appear on the ledger.

Q. 128. Always?

930 A. Always.

Q. 129. And at all times?

A. Not at all times. The reason why it don't always appear on the ledger is that, when we buy a cargo of coffee, for instance, of Brown Bro's & Co., we enter it on our invoice-book, and we do not enter it on

our ledger till it is paid for; then it goes to the cash-book and is charged to merchandise, and is posted from there to the ledger; so that it is only when we pay for bills that it appears in that form. We do not open accounts with persons of whom we buy goods.

Q. 130. Then you mean to say that your ledger never does exhibit the true condition of your concern?

A. At the end of the year everything that we owe is brought together, and is entered on the ledger, but never at any other time.

Q. 131. Isn't it at the end of the year that the balances are transcribed into the trial-balance?

A. It is done about twelve times a year.

Q. 132. Did you make that many?

A. Yes; we generally did.

Q. 133. Did you enter them on your journal?

A. We entered them, probably, on loose pieces of paper. I don't know, I think they were only entered once a year on the ledger.

Q. 134. I understood you to say that your ledger never did, at the end of the year, show the condition of your concern?

A. I didn't say anything of the kind.

Q. 135. What is the fact? Did your ledger show the condition of your firm at the end of the year?

A. Always, as near as possible, it would show.

Q. 136. Did it show what you owed and what you owned?

A. Yes.

Q. 137. Does or does not your ledger, at the end of the year, show what you owed and what you owned; and, if it does not, state in what particular?

A. It shows in the aggregate what we owed and what we owned.

Q. 138. Does it show the details of what you owed and what you owned?

A. It never does, because we would not keep any other books if it did.

Q. 139. Does it show, with the exception of the merchandise account, which is lumped together, what your moneys are invested in, and in detail?

A. Probably, and generally in detail.

931 Q. 140. If the balances from the ledger are correctly transcribed into the trial-balance, doesn't that show what you owed and what you owned?

A. It depends upon whether everything is posted on the ledger; after that is all on the books, what we owe and what is owing to us; and if we should transcribe them to the trial-balance it would show it.

Q. 141. Does or does not your ledger correctly show what you owed and what you owned at the end of the year?

A. It does not show in detail what we owed; no, sir.

Q. 142. Don't your bills-payable account show the aggregate of the notes you owe?

A. The bills payable would, but you could not find it out in the ledger.

Q. 143. The aggregate?

A. Yes; the aggregate, it would. In cases where we owe debts for which notes have not been given, our ledger shows the particulars at the end of the year; it shows what money we have invested, and what we have it invested in; every particular as to our property and indebtedness ought to appear on our ledger at the end of the year; we do not always strike balances, we compute them; the ledger shows in the form of balances struck or computed on each account.

Q. 144. Isn't it usual to take the trial-balance after the balances are so struck or computed on the ledger?

A. Very few merchants do it.

Q. 145. I am talking about what you did, and about this particular trial-balance before you.

A. Ask M'r Burritt and M'r Morgan.

Q. 146. I ask you.

A. I don't know how that was.

Q. 147. Do you believe that the transcript before you was a false transcript of the balances from the ledger?

A. I have no belief about it.

Q. 148. Why did you say the trial balance was nonsense?

A. Because it is not designed to show the state of the ledger; it is designed to show the correctness of the book-keeper's figures.

Q. 149. Is it or not designed to embody the balances on the ledger correctly?

A. That is not the usual use of a trial-balance.

Q. 150. Is it designed to misrepresent or represent the balances of the ledger?

A. It is designed to show the correctness of the book-keeper's figures.

Q. 151. (Repeated.)

932 A. There is not any intention of that kind about it, but to try the books.

Q. 152. Where did the materials come from?

A. From the ledger.

Q. 153. Do you mean to say that a document covering 12 pages in the journal, and which is a summary from your ledger, and designed to test the correctness of your ledger, is nonsense?

A. I didn't say so at all; I think it is a very immaterial and frivolous thing.

Q. 154. You would not pay the least attention to it?

A. I have sometimes made it a matter of convenience to see what M'r Jones or M'r Simpkins owed; I would then go to the trial-balance and depend on it, and believe it; the figures were supposed, when they got there, to be correct.

Q. 155. Then it had that importance, that it is a correct transcript of the balances on the ledger?

A. Yes; as they appeared on the ledger at the time that it was taken off.

Q. 156. Isn't it intended to embrace all the balances on the ledger?

A. It is not necessary that every sum that we owed, or that was owing, should be on that ledger at the time when the trial-balance was taken off.

Q. 157. It is intended to be a correct transcript of the balances on the ledger?

A. It is intended to be a correct transcript of the balances on the ledger so far as they are posted.

Q. 158. If they are not posted they are not on the ledger, are they?

A. It is intended to be a correct transcript at the time it was taken off.

Q. 159. And the balances on the ledger are intended to embrace all the debts and the property of the concern?

A. Not always when the trial-balance is taken off.

Q. 160. Was it when your trial-balance was taken off?

A. I don't know.

Q. 161. You don't know with what intention your book-keepers kept your books?

A. I swear that the trial-balance has nothing to do with the books; it is a mere memorandum and has nothing to do with it.

Q. 162. Why, if it has nothing to do with the books, and you wanted to ascertain how much a given person owed to the firm, did you go to it?

A. I would rarely go to it, without looking at the account on the ledger too.

Q. 163. Didn't you believe that the balances were correctly transcribed into the trial-balance?

933 A. Yes, but it don't show anything.

Q. 164. Is the trial-balance now before you?

A. It is headed "Trial Balance;" yes, it appears to be it; I see the item "A. S. Anderson, Buffalo, New York," with the figures "25,000" in the right-hand column; it conveys the idea to my mind that there is a balance on that account of $25,000 to *to* his credit; but there may be another account on the general ledger, which would show a debit against him; I would not place any reliance on that item at all.

Q. 165. Now the ledger is presented to you, and you are requested to devote to its examination sufficient time to state what the indebtedness of J. K. & E. B. Place was on the 1st December, 1865?

A. No, I will not.

Q. 166. Will you state from the trial-balance of J. K. & E. B. Place the indebtedness of J. K. & E. B. Place on 1st December, 1865?

A. I am not sure that I could state by the trial-balance what the indebtedness was.

Q. 167. Do you mean to say that the trial-balance does not show?

A. The trial-balance is not intended to show; it may show.

Q. 168. Do you mean to say that it does not show?

A. I don't know whether it does or not.

Q. 169. Will you take the ledger, then, as you decline to testify from the trial-balance, and inform me from the ledger what was the indebtedness of J. K. & E. B. Place December 1, 1865?

A. As I did not keep the books it would be a great deal of trouble to fish that out, and I would suggest to Mr. Bangs to get a book-keeper.

Q. 170. Do you think any book-keeper except the one who kept the books could tell?

A. Yes.

Q. 171. Were you not brought up a book-keeper?

A. No; I was a book-keeper once.

Q. 172. Are you not a good enough book-keeper to take the books and tell?

A. I have not kept books in a long time, and it would be a great deal of trouble to fish it out.

Q. 173. Are you not a good enough book-keeper to tell from your own books what the firm owed the 1st of December, 1865?

A. I have not kept books in a long time, and it would be a great deal of trouble.

Q. 174. How could you swear that the books were kept correctly?

A. Because I believe they were.

934 Q. 175. I ask you how you know?

A. Because I hired competent book-keepers, and looked over them once in a while.

Q. 176. How do you know they were competent book-keepers if you can't tell from your own books what was your indebtedness?

A. I didn't say that I could not; I declined to do it.

Q. 177. I ask you now to state from any means within your power the indebtedness of J. K. & E. B. Place the first of Dec., 1865.

A. I think it was about $1,000,000.

Q. 178. What was the exact amount?

A. I can't state.

Q. 179. What means, in addition to the journal, ledger, and cash-book of J. K. & E. B. Place do you need for the purpose of enabling you to state?

A. I need the book-keeper that kept the books.

Q. 180. What do you want of him?

A. I want him to facilitate the inquiry.

Q. 181. What do you want him to do?

A. I have nothing more to say in answer to that question. I want him to assist in making it out.

Q. 182. What kind of assistance do you want? I want to know.

A. I decline to answer that question.

Q. 183. Why didn't you pay for the Fifth avenue property out of your interest in Place & Turlay, the Corn Exchange stock, your Humboldt stock, and the Metropolitan Bank stock?

A. I didn't feel inclined to sell that at that time.

Q. 184. Did you prefer to pay for your house out of the property of your firm rather than what you considered your separate property?

A. I didn't pay it out of the property of the firm; I drew checks or had checks drawn on money to the credit of the firm; I owned it after it was charged to my account; while it was in the bank it belonged to J. K. & E. B. Place, or J. K. Place & Co.; I took money of J. K. Place & Co. and charged it to my account, because as a partner in my concern I had a right to draw; I understood that I had a right to draw for my own benefit; I didn't feel bound to keep my capital there.

Q. 185. After having agreed to contribute $600,000, you didn't consider it was necessary to do so?

A. I had an agreement to put in all I had to spare.

935 Q. 186. Your written agreement did not represent your understanding with Mr. Sparkman any more than your account on your books represented your interest?

A. Mr. Sparkman and myself were in full accord in all these matters.

Q. 187. I ask you if your written agreement represented your understanding with Mr. Sparkman any more than your account on your books represented your interest.

A. You can draw your own inference.

Q. 188. You won't swear that it did represent your own understanding with Mr. Sparkman?

A. No.

Q. 189. Will you swear that there is any document, book, or account in existence relating to your affairs which truly represents what it purports to represent?

A. I think your question is an impertinent one; I won't answer it.

Q. 190. Will you swear that the deed to your wife for the Fifth avenue property was truly dated?

A. I have no doubt that it was.

Q. 191. Will you swear that it was?

A. If it was a proper thing to swear to, I would do it.

Q. 192. Do you swear that it was?

A. I have no doubt about it; I won't answer that any farther.

Q. 193. If it was dated in December and delivered in September, was it truly dated? Remember you have sworn in one place that it was

delivered in September, or made in September, and you supposed dated in December.

A. No; I have not sworn to any such thing.

Q. 194. Will you swear that your transfers of stock to M'r's Place were truly dated?

A. Yes, I will, if you want it sworn to.

Q. 195. Suppose I didn't want it sworn to, will you swear to the contrary?

A. Then I won't swear at all.

Q. 196. Will you swear that the deed to M'r's Place was truly dated?

A. I have no doubt the deed was truly dated.

Q. 197. Do you swear the deed was made the day it was dated?

A. I have no question about it at all.

Q. 198. The deed being dated the 1st of December, why did you say it may have been in September?

A. I didn't happen to remember.

Q. 199. Why did you swear to the contents of a paper when you didn't have it before you?

A. I didn't swear to the contents of the paper.

Q. 200. Now you swear that it was correctly dated?

936 A. I supposed it was.

Q. 201. If it was in September and it was dated the first of December, it wasn't correctly dated, was it?

A. I didn't have the document before me to know the date of it.

Q. 202. You don't know anything about it, do you?

A. I can't tell the date of it now.

Q. 203. Why did you profess to?

A. I didn't profess to.

Q. 204. You said it was in September or December.

A. In that neighborhood, I meant. I didn't propose to be very accurate about it, when I said September or December.

Q. 205. When you say that you conveyed the 5th avenue property to M'r's Place, state what act you refer to as constituting a conveyance; that is, just what you did.

A. I suppose I directed my lawyer to draw up the paper, and when it was ready I signed it and swore to it before the proper party, and executed it as anybody else would that made a transfer of property.

Q. 206. Do you remember doing all that?

A. I suppose I could recollect it if you want me to.

Q. 207. I ask you if you remember it.

A. I remember that I signed a document conveying the 5th avenue property to some person who conveyed it to M'r's Place.

Q. 208. Do you remember that that person conveyed it to M'r's Place?

A. I have no doubt that they did.

Q. 209. I ask you if you remember; you may be quite mistaken, you know.

A. I have no question about it.

Q. 210. I don't ask you that. I ask you if you remember what you have testified to—that you did sign a deed.

A. Yes; I remember that I signed a deed.

Q. 211. What did you do with it?

A. Just that moment when I signed it?

Q. 212. No; at any time?

A. I don't remember just now. When I put a matter of that kind in the hands of a lawyer to do——

Q. 213. I don't ask you that. I ask you if you remember what you did with it?

A. I don't remember distinctly about it now.

Q. 214. How many deeds in relation to that property did you ever see?

A. I don't remember distinctly about it now.

Q. 215. Why did you testify that M'r Wallis conveyed the property to M'r's Place; that is, what do you remember seeing or doing on that subject?

937 A. I know generally in my own mind what was done, and what I ordered to have done.

Q. 216. I ask you what you remember being done on that subject?

A. I remember that I signed a document that M'r Wallis had drawn up to convey that property to M'r A. H. Wallis, I think it was, and M'r A. H. Wallis conveyed it to M'r's Place.

Q. 217. What do you mean by "conveyed it;" did he lift it in his arms?

A. No; he made out what was usually called a deed, I believe.

Q. 218. Did he execute it?

A. I don't know; I suppose there was a witness to it. I am not sure whether I saw him write his name there or not.

Q. 219. If you did see him execute any such paper, what was the next you saw?

A. I don't remember distinctly seeing him sign it. I don't know what was done with it.

Q. 220. Who paid for recording the conveyances?

A. That I don't remember.

Q. 221. What do you know about any payment to M'r Ten Broeck?

A. I only know, generally, that M'r Ten Broeck had in his hands money that belonged to E. B. Place, and out of it M'r Ten Broeck will retain his little bill.

Q. 222. Do you mean that M'r Ten Broeck is the assignee of E. B. Place in trust for M'r E. B. Place's creditors?

A. Yes, I believe he is.

Q. 223. That is what you mean by saying he has been paid?

A. Yes, that is what I mean. I know there is money in the hands of M'r Ten Broeck belonging to E. B. Place, and M'r Ten Broeck will reserve his account out of it.

Q. 224. Is that what you mean by the answer you gave, that M'r Ten Broeck is the assignee of E. B. Place in trust for the benefit of M'r E B. Place's creditors?

A. Yes, that is what I mean.

Q. 225. Do you mean that M'r Ten Broeck has anything in his hands except what he has as assignee?

A. I don't know.

Q. 226. Has the $30,000 note to E. B. Place been paid by J. K. Place & Company?

A. I don't know.

Q. 227. Did E. B. Place owe J. K. Place & Company anything?

A. E. B. Place overdrew his account there, and the overdraft, I suppose, will be applied on that note.

Q. 228. Wasn't the amount of his note more than the overdraft?

938 A. I believe so.

Q. 229. Had he any property of J. K. & E. B. Place's in his hands?

A. I don't know.

Q. 230. When you said that M'r Sparkman's interest in J. K. & E. B.

Place was $262,000, and that yours was $227,000, where did you get your information from?

A From the balance of the accounts showing those amounts.

Q. 231. Where did you get them?

A. From the ledger.

Q. 232. When you said that you had, in 1866, a large amount of E. B. Place's money in the business, what did you mean?

A. There was a large amount due from the concern.

Q. 233. For what? What was it due to him for?

A. There was a balance to his credit that he had made in the concern of J. K. & E. B. Place.

Q. 234. You said (referring to the testimony) that you had a large amount of E. B. Place's money in the business?

A. It was left there as his banker; he deposited there.

Q. 235. Did he, as a banker, bring you money, and put it over your desk?

A. We settled up J. K. & E. B. Place's matters, and transferred it.

Q. 236. Do you mean anything more than this—that a balance was struck on the books and a large amount remained to his credit, and that he drew against that amount from time to time?

A. I mean that the concern was changed, and all these matters went into J. K. Place & Co., and that there was a large amount due.

Q. 237. Did he bring you money, and put it over the counter?

A. He didn't count any money over the counter to us.

Q. 238. Had you $168,000 in money of both concerns together on the 1st of December, 1865?

A. A great deal more than that.

Q. 239. How much was there?

A. On the 1st of December, 1865, there was $121,844 in currency, $15,026 in gold. That was not E. B. Place's money.

Q. 240. Where was that money—the $168,000—that he left there?

A. You asked me if he counted out the money, and I said no. I don't know where it was. It was in money, I suppose, that J. K. & E. B. Place owed to him.

Q. 241. Can you name any specific item of property that belonged to him that was in the possession of J. K. & E. B. Place, or J. K. Place & Company?

939 A. It was generally due to him by his account on the ledger.

Q. 242. Can you name any specific item of property that belonged to him and that was in the possession of J. K. & E. B. Place or J. K. Place & Company, December 1st, 1865?

A. I don't remember now any specific item of property.

Q. 243. What is the reason that you adopted that phraseology in reference to that transaction of E. B. Place, that he deposited money and left money with you?

A. Because that is the fact—that he left money with us.

Q. 244. How much did he leave with you, and when did he leave it?

A. If he wanted to draw that amount of money out he could have had it on whatever there was due to him, which I believe was $168,000; we could have stepped out and borrowed and paid him. The reason why I say he left money there was because it was due him; that is the only reason why I say there was money there—because there was money due him. If you should sell me a horse for a thousand dollars I would say you left a thousand dollars with me, if I agreed to pay for the horse whenever you called for it. In saying that we had during the first year, in our business, Ten Broeck and Anderson's money, I mean we considered

that we were bound to pay Ten Broeck and Anderson, as the money was left there for that purpose; J. K. & E. B. Place left it there.

Q. 245. Whereabouts there did they leave it?

A. With J. K. Place & Co.

Q. 246. Done up in brown paper?

A. No.

Q. 247. How did they leave it; in money?

A. Left an account on the books.

Q. 248. By that do you mean that J. K. Place & Co. inherited that indebtedness, and became bound to pay it?

A. Somewhat so.

Q. 249. Is that what you mean?

A. J. K. Place & Co. owed J. K. & E. B. Place for the stock of goods that was bought of them; and from the appearance of J. K. & E. B. Place's books there was due to E. B. Place about $168,000, and as fast as he wanted the money we were bound to pay him; we didn't suppose he would want the money very soon.

940 Q. 250. Do you know that E. B. Place requested M'r Anderson to take his money?

A. I only know from what E. B. Place told me; he said that he told Anderson to come and get it.

Q. 251. What did you understand by the following question: "What amount or sum per month was affixed or assigned to that Fifth-avenue realty, from September, '65, to September, '66?"

A. I understand that that average was to be paid every month; the contracts call for certain payments at certain times, and they finish to certain points, and it would take about that sum to meet the contract. J. K. Place & Co., in 1866, lost about $175,000. During that time I spent on the 5th-avenue property $52,000 or $53,000. I spent my own money. It was in the concern then, and I had the right to draw it. I had the right to draw it because I had it there. My having contributed it gave me the right to take it out. The agreement which said that I should keep in $600,000 I don't regard as nonsense, nor the trial-balance as nonsense. It was understood between myself and M'r Sparkman I was not to put in any sum. That sum was fixed in order to adjust the interests.

Q. 252. Did you have a private understanding with M'r Sparkman that you should draw out all you pleased to build the 5th-avenue house?

A. That is a fair inference.

Q. 253. Did you have that understanding distinctly?

A. I don't remember any understanding about it; but Sparkman knew of it and understood it; we were making money pretty fast about that time.

Q. 254. You paid it or caused it to be paid out of the money of J. K. Place & Co., in checks and otherwise, to the amount of fifty-two or $53,000, in 1866?

A. I think the bills were paid that way; all. M'r's Place did not promise to pay me back that money. She did not execute any mortgage to me. As I said before, I intended to give it to her, so that no mortgage was needed. I intended her to have that money free from the claims of creditors. My expenditure of $53,000 reduced my interest in the concern just so much. At the end of 1866, considering the losses of the concern, and my application of money to the erection of a

941 dwelling in 5th avenue, according to the books, that would show a balance to my credit of $80,000; that is, deducting what I had

expended on the 5th-avenue property up to the 31st December, 1866, from the balance that there is to my credit on the books.

Q. 255. What balance is to your credit on the books?

A. $142,446.

Q. 256. Do you mean to say that the figures in pencil which you have this moment written in the books are what you refer to as being your balance in the books?

A. Yes, sir.

Q. 257. You have, within the last five minutes, written on your books with a pencil $142,446, and then testify that that is your balance on the books?

A. Yes, sir; because there is on another account $600,000 to my credit.

Q. 258. You swear that the figures which you have put on the books in pencil are the balance to your credit on the books?

A. That is, if the accounts were put together.

Q. 259. I want to know if you have at this moment, since I asked you a question, taken page 3 of the ledger and thereupon written in pencil these figures: 600,000, 457,553, 142,456, 61,627, and then answered my question?

A. The $600,000 is the amount which appears to my credit in the stock account, and deducting the amount that appears against me on my general account leaves a balance of $142,446; I think there is also a balance against me on the loan-book which should go against me on that.

Q. 260. And the figures you have just this moment written on the book you testify is the balance to your credit on the books?

A. Yes; the balance due me on the ledger by the appearance of the ledger.

Q. 261. Do you swear that this page 3 does not debit you with $457,554?

A. I swear that it does, if the stock account is brought to that account, as it was afterwards. That is all I have got to say about that.

Q. 262. You mean to say if $600,000 was placed to your credit on that page as it now stands the result would be different from what now appears there?

A. I say there was $600,000 to my credit on the stock account at that time.

Q. 263. Will you compute what is three-fourths of $175,000?

942 A. It is $131,250.

Q. 264. Charge that against the figures $80,819, which you have just given—how much were you short at the end of 1866?

A. That would make me $51,000 short.

Q. 265. Had you at that time been charged with any of the 43d-street property, or any of the Corn Exchange stock, the Humboldt stock, the Metropolitan Bank stock, or the investment in Place & Turlay?

A. No.

Q. 266. Adding these items to your debit, how much were you short?

A. On this ledger there is in fact brought down to my debit on the 31st December, 1866, $475,000 and odd; that arises from my being charged on December 1st, 1865, with $600,000 as for my agreed proportion of the capital; if the amount so debited to me of $600,000 was credited back to me, I would have an apparent interest in the concern of $142,446; if, against that $142,446, I were charged with what had been expended on the 5th-avenue property up to that time, my interest would have been reduced to $80,819; if, in addition, I had been charged with

the amount invested for me in the 43d street lots, ($19,000,) my interest would have been reduced to about $61,600; if, in addition to that, I had been charged with the amount invested for my personal benefit in the firm of Place & Turlay, my interest would have been reduced to about $38,500; if, at the same time, I had been charged with the amount invested in the Corn Exchange Insurance Co., the Humboldt Ins. Co., and the Metropolitan Bank, that would reduce it to $275, about; if, in addition to that, I had been charged with my share of the losses of 1866, which I fix at $175,000, that would show me to be $103,000 behindhand; but, in addition to that, you ought to add, "if the Front street property had sold for $200,000, how much would you have in?"

Q. 267. Will you please look at the accounts on the ledger at pages 40 and 41, and state whether they represent an investment by the firm, or money drawn out by you from the firm and invested in your own name, said account being as follows:

943 (Page 40.) EXHIBIT 76.

Real estate, 132 & 134 *Front s't*, *J. K.* & *E. B. P.*

1865.		D'R.		
Jan'y	1	To am't from Ledger B.	107	$50,938 57
	6	" Cash	100	600 00
	10	" "	101	1,243 72
	13	" "	102	1,500 00
Feb.	1	" "	110	1,242 00
	4	" "	111	3,500 00
	6	" "	112	500 00
	9	" "	114	3,000 00
	13	" "	116	1,000 00
	1	" J. P. Giraud, j'r, ex't'r	102	41,400 00
	23	" Cash	121	800 00
M'ch	2	" "	125	2,300 00
	3	" "	"	300 00
	7	" "	126	318 53
	9	" "	127	2,000 00
	11	" "	128	202 22
	14	" "	129	203 58
	15	" "	130	1,000 00
	18	" "	132	265 56
	21	" "	133	632 96
	23	" "	134	175 00
	31	" "	138	1,000 00
Ap'l	1	" "	139	150 00
	8	" "	143	120 20
	22	" "	150	55 10
	29	" "	155	403 26
May	6	" "	161	98 67
	16	" "	170	94 09
	29	" "	181	10 00
June	10	" "	192	250 00
	27	" "	203	1,000 00
July	1	" "	206	150 00
	28	" "	222	18 00
	29	" "	223	57 33
Aug.	10	" "	234	258 26
Sep.	12	" "	254	26 90
	23	" "	262	1,081 25
	28	" "	265	38 00
	30	" "	266	40 00
Oct.	27	" "	285	1,633 45
	"	" "	"	625 00
Nov.	1	" "	289	852 00
	15	" "	298	14 90
	17	" "	300	40 68

EXHIBIT 76—Continued.

914					
Jan. 30	To cash	309	$40 00		
"	" interest	241	6,181 90		
"	" E. W. Wilson	255	83 34		
"	" profit and loss, 1865	255	24,723 04		
					$152,157 51
	C'R.				
1865.					
M'ch 25	By premium on specie	196	23,437 00		
May 1	" sundries	213	1,641 68		
Aug. 1	" "	215	1,600 00		
Nov. 1	" "	230	1,607 65		
"	" Place & Turlay	235	112 83		
30	" sundries	256	483 35		
"	" prem. on specie	247	3,275 00		
"	" real estate on Front st	256	120,000 00		
					$152,157 51

(Page 41.) EXHIBIT 77.

Real estate, 132 & 134 Front st., Ja's K. Place.

	D'R.				
1865.					
Nov. 30	To real est., Front st	256	120,000 00		
"	" Marsh, Coe & Wallis	259	89 00		
1866.					
Feb. 14	" cash	36	147 59		
17	" "	39	509 10		
May 31	" E. B. Place, "bond & m'g."	32a	2,751 00		
July 28	" cash	165	56 00		
Oct. 27	" "	245	1,485 00		
Dec. 1	" interest	75a	2,751 00		
31	" "	89	9,277 19		
					$137,065 88
	C'R.				
1866.					
Feb. 1	By sundries	7	1,174 99		
May 1	" "	24	1,450 00		
Aug. 1	" "	45	1,662 50		
Nov. 1	" "	70	1,512 50		
Dec. 31	" "	89	758 33		
"	" interest	80a	5,502 00		
"	" expense	85	5,005 56		
"	" balance	.....	120,000 00		
					$137,065 88
945					
	D'R.				
1866.					
Dec. 31	To balance	.....	$120,000 00		
1867.					
Jan. 25	To cash	20	113 57		
Ap'l 8	" "	77	344 20		
July 30	" "	153	56 00		
Nov. 20	" interest	179	7,360 40		
" "	" city and co. of N. Y.	188	2,155 67		
					$130,029 84

EXHIBIT 77—Continued.

1867.				
Nov. 20	To balance		$120,000 00	
	C'R.			
1867.				
Feb. 1	By sundries	113	379 17	
May 1	" "	129	1,137 50	
Aug. 1	" "	143	1,337 50	
1	" Place sugar-refinery	146	1,083 33	
Nov. 1	" sundries	170	1,637 50	
" 20	" expense	189	4,454 84	
	" balance		120,000 00	
				$130,029 84

A. They do not represent money drawn out by me and E. B. Place, and invested in the names of myself and E. B. Place. They represent an account in which the firm had no interest whatever. It does not represent money drawn from the firm. The money charged to that account came from Jane C. Place and J. P. Giraud, j'r. The first entry in this account is dated Jan. 1st, 1865. I think Jane C. Place had no interest in it at that time. The store was built by J. K. and E. B. Place out of their own money. They paid for the land. The title, I believe, was taken in the name of J. K. & E. B. Place. I mean James K. Place and Ephraim B. Place. I don't know but James D. Sparkman's name was mentioned in it. It was held by them as tenants in common, I think—that is, by myself and E. B. Place, and, perhaps, Sparkman. That is about all I know of it. I remember that James K. Place was one of the parties to the deed, and I remember that E. B. Place was one of the parties to the deed. As to James D. Sparkman being one
946 of the parties to the deed, I am not quite certain. The firm paid for it, I think, $116,000—I mean land and buildings. They didn't get credit for anything, if I understand the question. J. P. Giraud, j'r, left money with the firm, viz, $41,400. He left it on bond and mortgage. He allowed a portion of the purchase-money to remain on bond and mortgage. The account on page 40 appears to have been closed on the 30th Novem*b*er, 1865, by a credit to "Real estate, Front st., $120,000," and a new account opened on page 41, headed "Real estate, 132 and 134 Front st., James K. Place," and that account commences with this debit: "1865, Nov. 30, to real estate, Front st., $120,000." That represents the price I bought it at from J. K. & E. B. Place. Ephraim B. Place conveyed his interest to me. I executed a bond and mortgage for $78,600 to him. That was my own bond and mortgage. That was the difference between Giraud's bond and mortgage and this $120,000. The bond and mortgage to Giraud was originally the bond and mortgage of myself and Ephraim B. Place, I believe.

Q. 268. Was the money, or any of the money, invested in that property, ever charged to your personal account?

A. Yes.

Q. 269. When and where?

A. I will look at the journal and see.

(Witness refers to the following entry at page 256 of the journal of J. K. and E. B. Place, as follows:)

"41. Real estate, 132 and 134 Front st. 'Ja's K. Place.'
"40. To real estate, 132 and 134 Front st. 'J. K. and E. B. P.'

"For price agreed upon on sale of this property, Nov. 30, 1865, to James K. Place, he becoming the sole owner of the property from that date ..... $120,000."

WITNESS. I paid the concern a profit on it. There is an entry to the credit of profit and loss, 1865, $24,723.04, which is the difference between the amounts debited to that Front street account up to that date and the amounts credited up to that date, I believe. The account
947 appears to have been closed, at all events, with a profit to the credit of profit and loss account of $24,723.04, as follows:

"To profit and loss, 1865 ..... $24,723 04."

I now produce the original journal entry from which that is posted. (Witness produces journal entry referred to, from page 255 of journal of J. K. & E. B. Place, as follows:)

"40. Real estate, 132 and 134 Front st. J. K. and 'E. B. P.'
"61. " to profit and loss, 1865.
"For amount of profit on sale of property to Ja's K. Place, Nov. 30, 1865 ..... $24,723 04."

The items to the credit of the account on page 40 arose partly from a transaction on gold; that is, we sold gold against this account, or in association with it, which yielded two items of profit, one of $23,427, and the other of $3,275; the other items to the credit of that account are for rent; the items to the credit of the account on page 41, represented by the word "sundries," are for rent also. The account on page 133, headed "J. P. Giraud, j'r, executor," is as follows:

J. P. Giraud, j'r, executor.

1865.	C'R.			
Aug. 1	To cash	252*a*	$1,242 00	
1866.				
Feb. 1	"	24*b*	1,242 00	
Aug. 1	"	168*c*	1,242 00	
Dec. 31	" balance		41,400 00	
				$45,126 00
1865.	D'R.			
Feb'y 1	By real estate, Front street	192	41,400 00	
July 31	" interest	223*b*	1,242 00	
1866.				
Feb'y 1	"	7*a*	1,242 00	
Aug. 1	"	47*c*	1,242 00	
				$45,126 00
1867.	D'R.			
Feb'y 1	To cash	26*a*	$1,242 00	
Aug. 1	"	155*b*	1,242 00	
				$2,484 00
948				
1866.	C'R.			
Dec. 31	By balance		$41,400 00	
1867.				
Feb'y 1	" interest	116*a*	1,242 00	
Aug. 1	" "	171*b*	1,242 00	
				$43,884 00

That represents the mortgage held by Giraud. There is an account on page 132, as follows:

E. B. Place—"Bond and mortgage."

1866.	D'R.			
May 31	To E. B. Place	32	$2,751 00	
Dec. 1	" " "	75	2,751 00	
31	" balance		78,600 00	
				$84,102 00
1865.	C'R.			
Nov. 30	By E. B. Place	260	$78,600 00	
1866.				
May 31	" real estate, Front street	32	2,751 00	
Dec. 1	" interest	75	2,751 00	
				$84,102 00
1867.	D'R.			
May 31	To E. B. Place	138	$2,751 00	
June 1	" J. C. Place, "bond & m'tg"	144	78,600 00	
				$81,351 00
1866.	C'R.			
Dec. 31	By balance		$78,600 00	
1867.				
May 31	" interest	135	2,751 00	
				$81,351 00

That represents the bond and mortgage given to E. B. Place. The bond and mortgage was afterwards transferred to Jane C. Place. The transaction of giving that bond and mortgage is represented by the account on page 132, under the head of "M'r's Jane C. Place, bond and mortgage," of which the following is a copy:

1867.			
June 1	By E. B. Place, "bond and mortgage"	144	$78,600 00
Dec. 1	" interest	192	2,751 00

949 Those two accounts with J. P. Giraud, j'r, and E. B. Place, o Jane C. Place, (to which E. B. Place was afterwards transferred,) if charged with the account of real estate, 132 and 134 Front street, would take all these three accounts off the books, and the firm had nothing to do with it whatever. These three accounts were represented on the ledger of J. K. Place & Co. and J. K. & E. B. Place entirely for the convenience of J. K. Place, and by balancing these accounts, as I have just said, it would all be wiped out, and nobody would be interested in the concern or in that property excepting James K. Place. That is the plain state of the fact. The balance of $120,000 which stands to the debit of that account of real estate is exactly balanced by the two items which stand together to the credit of Jane C. Place and J. P. Giraud, j'r. If that real estate had been sold for $200,000, I consider that the profit would have been mine. I therefore estimate that item of property as belonging to me, exclusive of my interest in the concern as appearing on the books. Since November, 1867, that property has been sold. It brought under foreclosure of a mortgage of Jane C. Place, $117,000 odd. It was sold subject to the mortgage to Giraud, and the Giraud mortgage was paid out of the sale. It didn't yield any profit above the $120,000 with which it stands debited on the books.

Q. 270. Will you please look at the entry on the journal under date November 10th, 1867, "James K. Place, D'r to Fifth avenue property, corner of Forty-seventh street, $100,633," and say which member of the committee of creditors ordered that entry to be made?

A. I don't know. I was informed that one of them had. I think M'r Burritt so informed me.

Q. 271. Will you state what M'r Burritt told you in his own words, as near as you can?

A. I don't know that I can recollect.

Q. 272. State the substance.

A. That the committee had directed him to post up the books, and that that came in with the rest.

Q. 273. Will you look at the entry and state in whose handwriting it is?—it is dated in the journal November 20, 1867.

950 A. That seems to be in the handwriting of M'r Morgan. I see on the next page there is the handwriting of M'r Burritt again; so it seems that M'r Morgan and M'r Burritt were doing the writing there together. There was no committee of creditors on the 20th November, 1867. That was afterwards, but then it seems to have been put under that date. There was no committee of creditors on that date, but the entries are dated that day.

Q. 274. Then your books do not show the true time at which the entries are made?

A. It is improbable that they would.

Q. 275. Your books do not show the true date at which the entries were made?

A. I don't know.

Q. 276. If it be true that these entries were made at the request of the committee of creditors, is it true that the dates at which the entries were made are correctly stated on the books?

A. No; and they should not. It would not be proper that the entries should be so made. They should not be made as in December, if they should go under the head of November, because the books were to be posted up to the 20th November, 1867, as well as after that time.

Q. 277. Is it intended that the entries should commemorate, indicate, or signify transactions which took place at the time the entries bear date? For instance, if you gave your note in April, 1866, to Ephraim B. Place for $30,000, the note being dated the 1st of December, 1865, it being intended that the transaction should take effect as of the latter date, would it be proper to enter the transaction in the books as of the 1st of December, 1865, or would it be proper to enter it in April, as of April, 1866?

A. If the transaction took place in April, 1866, it would be entirely proper to enter it as of April, 1866.

Q. 278. But as of what date?

A. About the date of the transaction, that would be the proper time.

Q. 279. Do you mean April, 1866?

A. Yes; and so that the entries should date back from the 1st December, 1865.

Q. 280. What transaction took place in relation to the Fifth avenue property in November, 1867, which made it proper to charge you under that date with that property?

A. The failure of J. K. Place & Co.

Q. 281. Did that make you chargeable with that property any

951 further than you had been chargeable with it before?

A. It was perfectly proper to close the accounts as of that date, because the concern expired then.

Q. 282. I asked you if that failure made you any more chargeable with that property than if there had been no failure?

A. No; not any more.

Q. 283. Now, what transaction or event, in relation to the Fifth av-

enue property, was that entry intended to signify, or indicate, or point out?

(Objected to on the ground that it does not appear that the entry was made by the witness, or the witness's firm, or by their order; and that the witness is not supposed to know for what purpose it was made by the creditors or others by whom it was made.)

A. I suppose it is hardly proper for me to answer that question, as I didn't order the entry made. It was a proper entry, because it was one of the open accounts for which I was liable personally. I had been liable for it from the time that I commenced charging money to it, I suppose. It was a proper entry at any time. It was not made, because it did not suit our convenience or mine. It did not suit my convenience to have our books show that I conveyed that property, because I intended to have all the money paid on the property appear in one account. If the Fifth-avenue property, at the time of the execution of the deed by me, had been charged to my personal account, and the money which I afterwards drew out became my money because I drew it out, my personal account would have shown how much I drew out. The account on page 83 of the ledger, headed "Lots on 43rd street," represents partly an investment by myself, and partly an investment by Sparkman, but not an investment by the firm. It was charged to my personal account after the failure of the concern. The account seems to have been divided into two separate accounts, (referring to the journal,) one charged to "real estate, West 43rd street—James K. Place," the other, "real estate, West 43rd street—James D. Sparkman;" it will be found at page 180 of the journal, as follows:

952			
83	Sundries to lots West 43d st.:		
66	Real estate W. 43d st., J. K. Place, for ½ ac.....	$19,298 50	
67	Real estate, W. 43d st., J. D. Sparkman, for ½ ac....	19,298 50	
			$38,597 00

No part of that money was ever charged to the personal account which appears on the ledger at pages 2, 3, and 4. This account at page 83 of the ledger appears to show a balance to the debit of the account on the 31st December, 1866, of $16,210. Up to that time one-half of the amount had been invested on my account. The two stables that covered the rear of these lots, which Sparkman and myself owned separately, were progressing together, and were to be built alike, and to cost the same money; the account was kept jointly, and it was intended to be kept jointly until the stables would be finished. When the stables were finished, the account was balanced then by charging each person. A considerable proportion of that sum there charged was expended on the stable which stood on the lots standing in my name. I suppose so, as they went up together. If that proportion had been at the time charged to my personal account, my interest in the concern would have been so much reduced. I executed the conveyance of so much property as stood in my name to M'r Wallis.

Q. 284. Will you show any entry on the books indicating that conveyance?

A. It was not necessary to make any entry on the books to show that conveyance.

(Question repeated.)

There is none that I know of. The account on page 386 of the ledger, under the heading, "Susquehanna Seminary, Binghamton, N. Y.," rep

resents money withdrawn by me and invested in my own name. It does not seem to have been charged to my personal account. This Susquehanna Seminary account shows a balance on December 31st, 1866. If that had been at that time charged to my personal account. the amount to my debit on that personal account would have been so much increased. One-quarter of this account should be charged to M'r Sparkman.

(The following is the account referred to:)

953 *Susquehanna Seminary, Binghamton, N. Y.*

	D'R.			
1866.				
April 5	To cash	80	$4,507 25	
4	" B. Payle	21	5,000 00	
May 2	" cash	99	125 00	
18	" "	112	300 00	
Sept. 14	" "	201	2,874 00	
15	" "	204	234 78	
Oct. 31	" "	250	500 00	
Nov. 13	" "	261	77 50	
Dec. 31	" "	307	162 82	
"	" interest	89	447 65	
				$14,229 00
	C'R.			
1866.				
Dec. 31	By balance	.....	$14,229 00	
				$14,229 00
	D'R.			
1866.				
Dec. 31	To balance	.....	$14,229 00	
1868.				
Feb. 28	" cash	50	185 88	
M'ch 30	" "	72	227 50	
Apr. 4	" "	75	22 86	
13	" "	80	250 00	
May 23	" "	110	100 00	
Aug. 2	" "	156	234 78	
Sept. 23	" "	189	312 50	
	" Marsh, Coe & Wallis	175	149 20	
Nov. 20	" interest	179	929 42	
				$16,641 14
	C'R.			
1867.				
Nov. 20	By real estate, Binghamton	183	2,874 00	
"	" balance	.....	13,767 14	
				$16,641 14
	D'R.			
1867.				
Nov. 20	To balance	.....	$13,767 13	
				$13,767 14
	C'R.			
1867.				
Nov. 20	By r. est., Binghamton	185	238 14	
"	" " "	169	536 86	
"	" balance	.....	12,992 14	
				$13,767 14
954				
	D'R.			
18 7.				
Nov. 20	To balance	.....	.....	$12,992 14

The accounts on page 47 of the ledger, as follows:

Sparkman, Place & Co.—"*Special, No.* 1."

	D'R.			
1867. Jan. 10	To cash	6		$30,000 00
	C'R.			
1867. June 4	By Sparkman, P. & K.	185		$30,000 00

Sparkman, Place & King.

	D'R.			
1864. June 4	To S., P. & Co., from 10 Jan.	185	$30,000 00	
Nov. 20	" interest	186	1,807 50	
				$31,807 50
	C'R.			
1867.	By Susan A. Place	200	$19,500 00	
	" Ja's K. Place	"	11,807 50	
	" balance		500 00	
				$31 807 50
	D'R.			
1867.	To balance			$500 00

represent money withdrawn by me from the firm and invested in my own name; it was invested as special capital in Sparkman, Place & Co.; a portion of it seems to have been charged to my personal account; $11,807.50 appears to have been so charged, and the balance charged to M'r's Place; the charge to M'r's Place indicates that she bought the stock. This will explain the entire account, viz: in the first instance there was a special partnership of Sparkman, Place & Company in which I became a special partner, and the $30,000 which is charged to Sparkman, Place & Company in the above account was my contribution to the capital. Afterwards the partnership ceased, and the corporation of Sparkman, Place & King took its place; and 200 shares of the capital stock were allotted to me as representing my interest in the
955 capital. The entry to the debit of M'r's Susan A. Place of $19,500 represents a transfer to J. T. Sparkman, and from J. T. Sparkman to her, of 195 shares of that stock. The entry to my debit of $11,807.50 represents the loss or shrinkage on that investment; and the remaining $500 represents the five shares which came to the possession of Burritt & Sheffield, and from Burritt & Sheffield to John Sedgwick. The entries to the credit of that account are in the handwriting of M'r Burritt; I suppose they were among those which I say were made by the direction of the committee of creditors; I don't recollect when the transfer to M'r's Place was made; she had the stock some time before it was transferred on the books; I don't remember the time; the transfer was made to her several months before there was any committee of creditors, and I don't know how the committee of creditors knew that anything had happened which made such an entry necessary; I don't remember distinctly the time when the mortgage to Joseph S. Barker

was made; the mortgage itself will show. The lots on Forty-third street, for which I executed a conveyance, were conveyed to M'r's Place through M'r Wallis, I believe; I could not tell you now who is in possession of the stable; I don't know who uses the stable; I don't know who receives rent for it; I think M'r's Place sold it; I don't remember the man's name now to whom she sold it; I don't know for how much she sold it; I had nothing to do with it.

Q. 285. Have you stated all you know about the transaction?

A. Very likely; possibly I might recall some other time something in connection with it, but that is all I remember about it now.

Q. 286. Can you state within $20,000 how much M'r's Place received for that property?

A. I don't know how much she received. I remember stating to one of that committee of creditors that a friend of mine had bought the claim of Phipps & Co. against us.

Q. 287. Who was the friend?

A. M'r Wallis said that I could say that; I supposed that what M'r Wallis said was true; he is a lawyer; I believed it; I don't know
956 Edward E Goodrich; I don't know who he is; I don't know the man at all; I don't know if there is any such person living; I have heard his name before this moment; I have seen it in these printed proceedings from time to time; that is all I know about him; I don't know him at all; if my counsel says he is a friend of mine, I consider him as such; I was informed that the mortgage to John W. Cross on the Fifth avenue property was given to buy my peace with Phipps.

Q. 288. Can you explain why it was that, after you had signed a mortgage to buy your peace with Phipps, the mortgage being for $70,000, the Stilwell proceedings at the suit of Phipps resulted in a decision adverse to you?

A. I was not aware that I signed a mortgage to buy my peace with Phipps; I signed a paper because I was the husband of M'r's Place, so my attorney told me; I didn't understand the transaction at the time; it was not explained to me; I didn't understand at the time what use was to be made of that paper; I didn't understand at the time I testified that it was to buy my peace with Phipps; I was so informed afterwards; I didn't fully understand what it was; I didn't know what the paper was; I didn't know that it was a bond; I left this entirely in the hands of my attorney.

Q. 289. So that your attorney's design was your design, was it?

(Objected to by M'r Hayward as legal inference.)

Q. 290. Did you design to ratify and adopt whatever your attorney should do?

(Objected to by M'r Hayward as irrelevant and incompetent.)

A. I don't know what my attorney requested me to do, and I didn't ask any questions; I gave him carte blanche.

Q. 291. If you executed and placed in the hands of your attorney a bond and mortgage for $70,000 for use in the Phipps business, and your attorney thereupon permitted M'r Phipps, in hostility and adversity to you, to have a judgment rendered against you in the Stilwell proceedings, do you consider your attorney as having betrayed you to Phipps or not? or was he acting according to your instructions?

(M'r Hayward objected to that portion of the question referring to collusion or betrayal as irrelevant and incompetent, and as asking the witness for a conclusion of law.)

957 A. I had nothing to do with it.

Q. 292. Did you instruct your attorney to permit a judgment to be rendered against you in the Stilwell proceedings?

(Objected to by M'r Hayward as irrelevant and incompetent.)

A. I don't remember giving him any instructions about it; it was not a thing that I could control. The gray horse mentioned in my inventories is owned now, I believe, by Mayor Gunther; he bought him; Burritt & Sheffield received the money for him; I don't know now from whom Mayor Gunther bought him; I don't know how Burritt & Sheffield got him from Cullen. I don't remember that I ever manually delivered anything to Cullen.

Q. 293. Did you intend that after having signed that paper the holder of it should collect $70,000 out of the Fifth-avenue property; and that at the same time you should be convicted adversely to yourself in the Stilwell proceedings?

A. I signed that paper only as the husband of M'r's Place; I had nothing to do wi h it.

Q. 294. You didn't expect any benefit from it?

A. It was only to release any claims I may have had.

Q. 295. Didn't you expect any benefit from signing that paper?

A. That was a transaction of M'r's Place's.

Q. 296. Didn't you expect it to be a benefit to yourself, the signing of that paper?

A. I don't know now what I expected.

Q. 297. You had nothing to do with inducing Goodrich to buy the demand?

A. I never knew him—had nothing to do with him.

Q. 298. Was it your expectation and intention that a purchaser of that demand, after M'r's Place and yourself had signed a bond and mortgage for $70,000, should use the demand adversely to M'r's Place and yourself?

(Objected to by M'r Hayward.)

A. I don't remember what my expectation was.

Q. 290. Did you expect to make such an arrangement of your affairs that on Phipps' claim of $117,000 you should pay $187,000, or there should be paid $187,000?

(Objected to by M'r Hayward.)

A. I didn't expect there would be.

Q. 300. Did you expect or intend that after having appropriated the 5th-avenue property to the extent of $70,000 to satisfy M'r
958 Phipps, some person selected by M'r Wallis should also have a claim against you for $117,000?

(Objected to by M'r Hayward as irrelevant and improper.)

A. As I said before, I had nothing to do with it.

Q. 301. Did you intend or expect that M'r Wallis should act adversely to you in the Stilwell proceedings, or did you employ him to act for yourself?

(Objected to.)

A. I employed him to take care of my interests in all these matters. I was examined as a witness in the Stilwell proceedings; the counsel for Phipps & Co. were M'r Thomson and M'r Pierrepont. I believe some of our books were produced; the cash-book for one; I don't remember the others. M'r Pierrepont asked me a great many questions about the 5th-avenue property; that was before my signing of the bond; I don't remember distinctly about when I was examined, or when I signed the bond.

Q. 302. Will you please to state whether the following is, according

to your recollection, a correct statement of certain questions put to you by M'r Pierrepont, and the answers given by you? "Did you build the house?—A. Yes; I superintended it. Q. When?—A. I commenced in September, 1865. Q. When did you finish it?—A. We moved into it in March, 1867; it was about completed then. Q. Was it furnished in March, 1867?—A. Yes, it was furnished probably before that, or about that time. Q. Has it been partly furnished since March, 1867?—A. Very little; the furniture was all bought long before that. Q. When was the last part of the house paid for? Has it all been paid for?—A. Yes. Q. When was the last payment made?—A. I could not tell you. Q. About when?—A. Some time last spring, I think. Q. When was the furniture paid for?—A. It was paid a year ago last fall, I think, partly. Q. Who did you make the last payment of the furniture to?—A. Pottier & Stymus. Q. Who did you make the last payment on the house to?—A. I think Smith & True, the carpenters. Q. Do you remember the date of that?—A. I do not. Q. About the date?—A. I could not tell you. Q. Last spring—what time? There are three months in the spring—which month of the last spring was it?—A. It might have been April or May; I cannot tell you from memory. Q. What was the amount of the last payment?—A. I do not know. Q. Don't you know the amount?—A. No; I could not tell you. Q. Do you know about the amount?—A. No; I paid them all along, as they wanted money; and I do not remember what it amounted to. Q. How did you pay them?—A. Generally by check. Q. Was it your firm check?—A. I generally make—— Q. My question is, whether you paid them in your firm check?—A. I am getting at that as near as I can; I marked it to
959 be paid, and then it went to the cashier to pay—the cashier gave the check. Q. Did he give your firm check?—A. I suppose so; I never kept a bank account myself. Q. Was that the way the furniture was paid for, too?—A. Yes, sir. Q. What did the house cost?—A. It cost about $90,000. Q. What did the furniture cost?—A. About $20,000. Q. Is the house or furniture mortgaged?—A. Yes. Q. When was it mortgaged?—A. In May, this year. Q. Who was that mortgaged to?—A. Joseph S. Barker. Q. For how much?—A. $30,000. Q. Is the furniture mortgaged?—A. No, sir. Q. Is there any other mortgage on the house?—A. No other. Q. Is that for borrowed money?—A. Yes, sir; borrowed on the house. Q. Who is Barker; is he a lawyer?—A. No; he is vice-president of the Merchants' Insurance Company." Do you remember that or any part of it—the substance of it?

A. That corresponds with my recollection of that portion of the examination.

Q. 303. Had M'r's Place any separate estate in December, 1865?

A. She had furniture.

John B. Morgan was called and sworn in the Stilwell proceedings, and examined by M'r Pierrepont:

I remember that they had the cash-book in court. I think I remember that M'r Morgan had the cash-book in his hand, and M'r Pierrepont was asking various questions and looking over it. I have no recollection about Burritt's examination. I believe he was on the stand, but I don't remember particularly about him.

Q. 304. Look at the entry on page 260 of the journal of J. K. & E. B. Place, under date of November, 1865, as follows:

412 MERCHANDISE.

84 *To premium on specie.*

For premium on gold acc'ts as follows, open on the books Nov. 30, 1865:

Borrowed gold	$769,690 20
Unsettled bills	716,065 34
	$1,485,755 54
Less gold acc'ts due from sundry parties for merchandise sales in gold	$228,173 43
	$1,257,582 11
Less gold lent	84,052 34
	$1,173,529 77
960 Premium on above balance at 48	$563,294 29

And state what that entry means.

A. It is the premium on specie account. It properly belongs to the merchandise account, and might as well have been charged always to that account as charged to a separate account, because it belonged properly to the merchandise, and that is merely transferring the sum of that account to the merchandise. In this entry the item "borrowed gold" represents "borrowed gold," and the item "unsettled bills" represented what we owed for merchandise bought; and the item $228,173.43 represented the amount which people owed us in gold for goods sold in gold, and $84,052.34 represented the gold we had loaned. On that balance, arising from all these, we charged to merchandise a premium of 48 per cent. That was the price of gold at that time. It really represented the premium that we would have to pay to get gold to meet this borrowed gold and unsettled bills, less what was due us. At page 258 of the journal of J. K. & E. B. Place, the item, as follows:

Merchandize D'r, to profit and loss, 1865, for amount stock on hand, Nov. 30, per inventory, gold	$996,367 19
Add premium on above at 48	478,256 25
	$1,474,623 44

represents the value of the merchandize then on hand. That is what it is intended to represent. The entry on page 250 of the journal, under date Nov., 1865, "Profit and loss, 1865," D'r to "Merchandize balance account, $1,115,715.66," represent' the balance then standing to the debit of merchandise account. It was our usual form to close the merchandise account annually in that way. We charged to merchandize account as we went along, from day to day, the cost of our goods, credited to it the proceeds of sales, and, at the close of the year, debited or credited the balance to profit and loss account, and so closed the merchandise account. If there was a balance to the debit of the merchandise account, we closed it by profit and loss account, by making
961 profit and loss debtor to merchandise. Before closing the merchandise account we took the inventory, and our book-keeper put the inventory to the credit of profit and loss account. I used to put it to the credit of merchandise account, but it don't make any difference. Our concern took the inventory and credited it to profit and loss

account, in the way shown by this entry at page 258 of the journal. The last year's entries seem kept that way. Having closed the merchandize account by debiting the balance to profit and loss account, we re-opened the merchandise account by making it debtor to the amount of the inventory; that was done Nov. 30, 1865. It was so done January 1st, 1864, January 1st, 1865. As the books stood on Dec. 31st, 1866, the balance to the debit of merchandize account seems to have been $812,062.66.

Q. 305. Please look at the journal, under date of Dec. 31, 1866, and see whether that balance was or was not then charged, according to your usual custom, to the profit and loss account.

A. It seems to have been charged here about that date.

Witness refers to the journal, under date Dec. 31st, 1866, page 97, to the following entry:

Profit and loss, 1866, to merchandise, for balance latter account $812,062 66

All the entries of that item, except the figures $812,062.66, are in the handwriting of M'r Morgan. The figures "$812,062.66" look like M'r Burritt's handwriting.

Q. 306. Will you say, upon looking at the profit and loss account for 1866, at page 103 of the ledger, whether or not, at any time prior to November, 1867, the balance of $812,062.66, which stood to the debt of the merchandise account, Dec. 31st, 1866, was ever carried to the debit of profit and loss account in the ledger?

A. It was posted on the account apparently by M'r Burritt, and under date Dec. 31st, 1866.

Q. 307. Was that posting made in that account prior to Nov. 20th, 1867?

A. I don't know when it was posted.

962 Q. 308. From the appearance of the books, do you believe that that posting was made prior to 20th Nov., 1867?

A. I should think not.

Q. 309. Was not the amount of the inventory credited to profit and loss account at the end of Dec., '66?

A. It seems to have been.

Q. 310. Could you produce a true result, or would the profit and loss account show the true result, of the business, if the inventory was carried to the credit of that account and the balance of the merchandise account was not carried to its debit?

A. It would show it to any book-keeper who would look at it.

Q. 311. How?

A. The pencil-memorandums would show the condition of the account.

Q. 312. What pencil-memorandums?

A. There is apparently a blank entry opened, which is not posted, and the account showed it in pencil all the time—the true condition of the concern.

Q. 313. I want to know whether the ledger in which that entry had not been posted, and where the profit and loss account had been credited $894,060, the amount of the inventory, but had not been charged $812,000, the balance of the merchandise account—I want to know whether the profit and loss account in that condition would have shown the result of the year's business?

A. It would have shown it by transferring the merchandise account to it, which any book-keeper would have done if he was looking at the

account to ascertain the true condition of the concern. No other person but a book-keeper should examine it.

Q. 314. The balance to the debit of merchandise account not having been transferred and charged to profit and loss account, but the inventory having been credited to profit and loss account, in that condition of the profit and loss account would it, on its face, have shown the condition of the concern?

A. It was not designed to show the condition of the concern.

Q. 315. I only ask whether in that condition it would?

A. No; the profit and loss account never shows the true condition of the concern until all the accounts are posted in it which should go there.

Q. 316. Then your profit and loss account was made up at the end of 1865, so as to show the condition of the concern?

963 A. Yes.

Q. 317. And it was not so made up in 1866, was it?

A. Yes; it was made up, leaving out the posting of the merchandise.

Q. 318. Is it not the effect of omitting that charge of $812,062.66, that as the profit and loss account stood without that item, the footing showed about $600,000 to the credit of that account; whereas, if the $812,062.66 had been posted, there would have been to the debit of that account upwards of $200,000?

A. That was so; but nobody was deceived by it at all, because the partners of the concern knew the true condition of the concern, and it was unnecessary that anybody else should know it.

(Plaintiff's counsel objected to the last clause of the answer, after the words "That was so," as irresponsive.)

Q. 319. Now look at the items at the end of profit and loss account, on page 102 of the ledger:

"1867.

"Nov. 20, by James K. Place $153,050 68

" " James D. Sparkman ..... 51,016 90"

and state what these two items represent.

A. That represents the balance of profit and loss account after the concern failed.

Q. 320. Does not the amount of $153,050.68, the amount there charged to you, represent your proportion of the losses for 1866?

A. That is what it is designed to represent, but it is a mistake.

Q. 321. What mistake is there in it?

A. There were profits on the transactions of 1866 that should go to the credit of profit and loss account before that division was made.

Q. 322. What were the transactions?

A. They are made somewhere here.

Q. 323. I am not asking about the entries, but what were the transactions?

A. The transactions are on the same page of the ledger, underneath.

Q. 324. What were they?

A. Among the rest was a cargo of coffee, which had been purchased and was on the way, on which a profit was realized.

Q. 325. Had you sold it in Dec., 1866?

A. No.

Q. 326. Had it arrived?

A. I don't know that it had.

Q. 327. How can you say that there was a profit realized on it?

A. Because the transaction took place in 1866.

964 Q. 328. You purchased it in 1866. Did you sell it before 1867?

A. I don't think so.

Q. 329. If you buy a cargo to-day and sell it next week at a profit, would you say you realized the profit this week or next?

A. We don't name the week when we speak of realizing the profit on a transaction.

Q. 330. If you buy a quantity of merchandise to-day, and keep it on hand for a week, and sell it next week at a profit of 50 per cent., would you say it is a profit realized this week?

A. We don't say what week, but a profit was realized on the transaction.

Q. 331. If you bought a cargo in January, 1866, and sold it in January, 1867, partly for cash and partly on credit, and on the whole transaction you realized a profit of 50 per cent., why would you say that it belonged to the profits of 1866?

A. Because we put it down in the inventory at the market value at the time.

Q. 332. If you bought merchandise in 1866 and sold it in 1867 at a loss, when would you say the loss accrued?

A. We follow the same rule. The loss accrued in the same year.

Q. 333. Did your merchandise depreciate in 1867?

A. Yes; during the year.

Q. 334. How much depreciation in 1867 occurred on the goods which you valued at $1,474,000 on the 31st Dec., 1866?

A. There was no depreciation, but a profit.

Q. 335. On all?

A. Yes.

Q. 336. On goods bought in 1867?

A. We sold ten times as many goods in 1867 as the inventory marked on the first of that year.

Q. 337. And you are quite certain that there was not any depreciation whatever on the goods you had on hand on the 31st Dec., 1866?

A. I think not, because we made a profit for several months after the first of the year, and there was nothing that I remember of there being any loss on. We probably did a very handsome business up to the summer of 1867.

Q. 338. Then the sum of $25,000, or thereabouts, you counted as profits of 1866, which was really the result of sales of goods made in 1867?

A. Goods that had been purchased in foreign countries. Goods had advanced so much that we were warranted in estimating them, and we did.

965 Q. 339. Didn't you estimate them on the 1st January?

A. Where the money had been paid we would naturally put them down for the amount paid.

Q. 340. Were not the goods in the inventory?

A. No; not in the inventory.

Q. 341. Then it was not a profit accrued on anything in your inventory?

A. No. Another item was a transaction where we had by mistake remitted M'r Weld too much money to pay duty on goods that we had purchased of him in Boston.

Q. 342. What adventure was that?

A. I don't remember what it was. I think, though, it was a cargo of pepper.

Q. 343. Do you know whereabouts on that ledger the account appears?

A. I guess the entry will show it. It says, "Amount refunded us for

duty on coffee ex Borneo." It was a lot of coffee on the Borneo that we overpaid him the duty on.

Q. 344. And you thought they owed it to you?

A. They did owe it to us, and paid it to us.

Q. 345. How did that affect the profit and loss account?

A. That indicates profit on the merchandise account, and we overpaid, and they returned it to us.

Q. 346. Did you ever realize anything from the investment in Place & Turlay, No. 2?

A. No, I think not.

Q. 347. That was an investment made before the 31st of Dec., 1866, was it not?

A. Yes.

Q. 348. You didn't ascertain until after that that it was lost, did you?

A. No.

Q. 349. You now ascertain that it belonged to the losses of 1867?

A. It was an investment originally for account of myself and E. B. Place. E. B. Place's interest was sold in 1866 to Sparkman and myself. The original investment was in 1865. I consider it among the losses of 1867. When, on my direct examination, I testified that M'r Sparkman drew money out of the concern which helped it into difficulties, I referred in part to the money loaned to Sparkman, Place & King. They owed J. K. Place & Co. about $100,000 when J. K. Place & Co. stopped, and the account would show what he drew besides. All that he drew for himself appears on his personal account, I suppose, except his share in the open accounts, such as Place & Turlay, No. 2. The money loaned to Sparkman, Place & King was settled, about the time we
966 failed, by their (Sparkman, Place & King) giving notes. The first investment in Sparkman, Place & King out of J. K. Place & Co. was the $30,000 withdrawn by me from J. K. Place & Co. and put into Sparkman, Place & Co. as special capital. I do not know of any other at that time. I do not know of any prior to that money withdrawn by me in January, 1867. There was no other that I remember. From that time down to the failure of J. K. Place & Co., myself or my transferees were proprietors of one-sixth of the capital of Sparkman, Place & King. From January, 1867, to November, 1867, my brother, Charles Place, was the proprietor of another sixth. The propri tors were myself, Charles Place, James D. Sparkman, and William King, and William King's son. I do not know whether stock was issued to William King's son or not in the new company. M'r King took two-sixths for himself and his son. The money that was loaned by J. K. Place & Co. to Sparkman, Place & King was loaned to them to be returned again. It was not supposed that they would keep it a very great time.

Q. 350. It was to be used for the benefit of Sparkman, Place & King?

A. It was loaned in the usual way; you can infer whatever you please from that; we supposed it would be returned in a few days, if we wanted it; I was a member of both concerns; I considered Sparkman, Place & King perfectly solvent then, and also at the time that our firm failed; the notes of Sparkman, Place & King that we took in settlement of the account against them were notes at twelve months; Sparkman, Place & King kept going nearly two years after J. K. Place & Co.

Q. 351. Could they have kept going if they had been required to pay J. K. Place & Co. in November, 1867, the money they borrowed?

A. If their stock in trade, their goods on hand, had been as saleable as teas and coffees and sugars and dry goods, they could have paid, and been perfectly solvent.

Q. 352. Taking into consideration all that you know about Sparkman, Place & King, do you say that if J. K. Place & Co., in November,
967 1867, or October, 1867, had refused to take the notes of Sparkman, Place & King at one year, for the borrowed money, but had insisted on immediate payment, do you say that Sparkman, Place & King had stamina enough to survive the failure of J. K. Place & Co.?

A. That would depend upon whether they could sell or loan money upon their stock of goods.

Q. 353. Is it your opinion, that if the immediate payment of that borrowed money had been insisted upon, and had been made, Sparkman, Place & King had stamina enough to survive the failure of J. K. Place & Co.?

A. I do not want to say whether they could or not; they lost $60,000 in building some mills up town; that was at the time they sold the mills; I do not remember the date.

Q. 354. In 1867, I understood from your testimony, besides being a partner in J. K. Place & Co., you were part proprietor of Sparkman, Place & King, and part proprietor of the Place Sugar Refinery; and J. K. Place & Co., besides losing money in depreciation of merchandise, were engaged in supplying capital, or at least the means of carrying on business, to Sparkman, Place & King and the Place Sugar Refinery, and had not collected the loans to the Place Sugar Refinery; and collected the loans to Sparkman, Place & King, only in notes of Sparkman, Place & King, at one year from November and October, 1867; is that correct?

A. It would not be a fair answer to that question to say that they were supplying capital to the firms; they loaned the money, to be returned in a few days; and it is not a proper construction of the act of loaning to say that they were supplying the means to do business with.

Q. 355. Is it true to this extent: that J. K. Place & Co. furnished you the capital which you put into Sparkman, Place & King; and they furfurnished you the capital which you put into the Place Sugar Refinery?

A. Strictly speaking, only $22,500 came from J. K. Place & Co.

Q. 356. Did they not also furnish to M'r Sparkman the capital which he put into the Place Sugar Refinery?

A. They could not be properly said to supply the capital he put
968 into the refinery. M'r Sparkman had a good deal of property outside of J. K. Place & Co.

Q. 357. Was not this the process: Ephraim B. Place first invested $30,000 in Place & Turlay; he then sold that interest to M'r Sparkman, and J. K. Place & Co. gave their note for that interest; then J. K. Place & Co. loaned large amounts of money to the Place Sugar Refinery, and for $133,000 of that money took stock of the Place Sugar Refinery, which was equally divided between yourself and M'r Sparkman?

A. M'r Sparkman and myself bought E. B. Place's interest.

Q. 358. With that correction, is the statement contained in the question true?

A. No; it was not true.

Q. 359. Then in 1867 you were concerned in three different establishments, all of which were losing each other's money; is that so?

A. They did finally lose each other's money to some extent.

Q. 360. Were they not losing it in 1867?

A. Not at the time the money was paid in; no.

Q. 361. After the money was paid in were they not?

A. They did after the money was put in.

Q. 362. Could you name the exact hour of the day, in 1867, in which

the money loaned to the Place Sugar Refinery was lost? I mean, be as precise as you can in stating the date at which the Place Sugar Refinery lost the money loaned to it.

A. It was in the last part of the year.

Q. 363. On what transaction?

A. Because the early part of the year they made up and showed a profit.

Q. 364. On what transaction did they lose the money?

A. I could not tell you exactly; it might have been on Fischer's sugar, or on Spence, Montague & Co.'s sugar, or somebody else's sugar.

Q. 365. Might it not have been in building a refinery?

A. No, sir.

Q. 366. When was the refinery built?

A. It was commenced in 1865.

Q. 367. When was it finished?

A. In 1866.

Q. 368. What did it cost?

A. It cost, with its outfit complete, I think about $265,000.

Q. 369. What did it sell for?

A. It was sold at a forced sale, and brought about $161,000, I think; but it was worth all it cost, and more besides, the day it was sold.

(Latter part of the answer objected to by plaintiff's counsel as irre-
969 sponsive.) The capital of the Place Sugar Refinery was about $200,000.

Q. 370. Did it not commence operations with a debt of upwards of $100,000?

A. It was mortgaged at the time for a considerable sum.

Q. 371. Was it not $100,000?

A. Yes.

Q. 372. Were not these mortgages held by M'r's J. K. Place and M'r's E. B. Place?

A. It did not commence operations with that debt upon it; I think one of $50,000 was given to somebody afterwards.

Q. 373. It commenced operations subject to a mortgage to M'r's J. K. Place of $25,000; and also to a mortgage of $25,000 to M'r's E. B. Place, and subsequently executed a mortgage for $50,000 to M'r's E. B. Place, and the amount of that $56,000 mortgage was charged on the books of J. K. Place & Co. to E. B. Place, in reduction of his claims against J. K. Place & Co., or of his interest in J. K. Place & Co. and J. K. & E. B. Place?

A. Yes.

Q. 374. The Place Sugar Refinery had not means enough to carry on its business without large borrowings from J. K. Place & Co., had it?

A. If you leave out large borrowings from J. K. Place & Co., I will say yes.

Q. 375. Without large borrowings?

A. Yes; it did not borrow largely of J. K. Place & Co. at that time; it borrowed of banks on notes which were endorsed by J. K. Place and J. K. Place & Co.; and subsequently, after those notes had been renewed from time to time, it partly paid them, requiring money to take many of them up, and when they did so they borrowed money of J. K. Place & Co.

Q. 376. Had Sparkman, Place & Co. means enough to carry on its business without borrowing largely?

A. They had means enough to do a very large business, and on very much less capital than they had. M'r King was very enterprising, and made very large purchases abroad.

Q. 377. Were you one of the trustees?

A. Yes.

Q. 378. Well, now, will you say which of the three concerns you were interested in was the ruin of the other or others?

A. I think it was the cork concern that did the business.

Q. 379. Then the cork concern ruined the other two without saving itself?

A. I think the large amount of money that was used by M'r Sparkman, part of which was in loans from J. K. Place & Co., was the cause of the downfall of the others.

970 Q. 380. And it effected that downfall without saving itself, did it?

A. If M'r Sparkman had used money in J. K. Place & Co. that he put into that concern, probably the other two would have been saved.

Q. 381. Sparkman, Place & King effected the downfall of the others without saving itself, did it not?

A. I could not say that properly, because it lived two years after the others failed.

Q. 382. It failed on its obligations to J. K. Place & Co., did it not?

A. Not wholly, that I know of.

Q. 383. Did it meet those obligations?

A. It did not meet them.

Q. 384. Is it a fact that you were a member of the concern which effected the ruin of the others as well as a member of the concerns whose ruin was effected?

A. It was a fact that I was a trustee of Sparkman, Place & King.

Q. 385. Will you please to look at the account on your ledger, (J. K Place loan account,) of which a copy is contained in M'r Buritt's deposition, and state whether that represents money drawn from J. K. Place & Co. for private purposes of your own; or state without looking, if you can.

A. Yes, it does.

Q. 386. Was it ever charged to your personal account?

A. The account that you refer to is my personal account.

Q. 387. Was it ever charged to your general account in the ledger at page 2?

A. Up to a certain period it was—up to the 1st of January, probably. The account shows just what was done with it. The profit and loss account shows the particulars of our losses and the particulars of our profits as far as a profit and loss account can do so. It was our custom when the result of an adventure or investment or a sale was ascertained, to close it by some proper entry on the profit and loss account. If sales to customers resulted in losses, it was the custom to charge the balance which stood to the debit of the customer to profit and loss account. The customer's account was balanced by profit and loss account.

Q. 388. Will you please to look at the profit and loss account for 1866, at page 103 of the ledger, of which the following is a copy, and state whether in 1866 there was anything to place to the credit of profit and loss account besides the items which stand credited to it under that date?

1865.					1866.			
Dec. 30	To cash	331	$50 00		May 31	By adventure to N. O., Nos. 1 and 2	31*a*	$32 64
1866.					Jan. 14	" P. & T., sugar-refiners	49*a*	1,135 20
Jan. 29	"	20	100 00		Sept. 30	" " "	59*a*	1,307 27
Feb. 1	"	24	25 00		"	" "	63*a*	703 00
Feb. 24	"	45	25 00		Dec. 31	" U. S. certificates	88*a*	42 25
Feb. 29	"	75	100 00		"	" importation ex Eleanor	90*a*	213 67
July 26	"	165	7 16		"	" do. ex Emily Agnes	90*a*	1,724 95
July 28	"	165	20 00		"	" merchandise	97	894,594 58
Aug. 20	"	181	30 88		1867.			
Oct. 30	"	247	50 00		Feb. 28	" importation ex Warwick	119*b*	5,223 32
Dec. 31	To Sackett, B. & Co	84	6,078 19		March 1	" sundries	122*a*	128 35
"	" W. H. Davidson	"	100 00		April 30	" do.	126*a*	15,163 60
"	" J. H. Studwell	"	200 00		May 17	" importation, Lota	132*b*	22,878 21
"	" imp'n from Rio, N. 3	88	19,789 61		June 1	" P. & T. special account, No 2	137*a*	2,100 00
"	" F. H. McCready	93	333 80		June 3	" U. S. 7-30 notes	139*a*	305 00
"	" Groom Bro's & Co	92	1,107 71		Aug. 1	" imp. from Padang, No. 2	149*b*	20,855 48
"	" E. W. Van Benschoten	94	41 47		Oct. 1	" importation, "Lucie"	161*b*	17,622 36
"	" insurance	96	19,311 67		Oct. 15	" do. Shawmut & Kronprinz	164*b*	12,886 78
"	" U. S. taxes	"	16,595 92		"	" " Umea	166*b*	2,418 03
"	" storage	"	20,353 41		Nov. 20	" amount to P. & L., April, 1867	93*c*	35,599 23
"	" brokerage	"	48,624 20		"	" James K. Place	185	153,050 68
"	" expenses	"	52,641 71		"	" J. D. Sparkman	185	51,016 90
"	" interest	"	106,109 19		"	" profit and loss, 1867	196	48,957 01
"	" Jackson & Pickert	94	1,178 64					
"	" E. W. Van Benschoten	96	102 37					

1867.			
March 1	" sundries	122	532 00
April 19	" cash	84	20 00
May 9	" imp'n Francis Milly	133	4,733 47
Aug. 1	" " Alvington	149*c*	9,865 67
	" " Vid'arle	150*c*	8,057 79
Aug. 1	" " Uller	150*c*	6,093 21
Oct. 23	" " Svanen	167*c*	6,846 09
Nov. 20	" am't to P. & L. account, 1867	166*b*	81,884 18
"	" Dorsey & Billup	177	11 68
"	" A. T. Lawrence	"	165 00
"	" E. W. Wilson	"	43 00
"	" Williams, Y. & Kaas	"	833 77
"	" disbursement Wash'n	"	1,855 90
"	" Sackett, B. & Co	"	1,526 06
"	" A. Wood, $250, $450	"	700 00
1866.			
Dec. 31	" merchandise	97	812,063 66

Profit and loss—1866—Continued.

1867.						
Nov. 20	" Brinkerhoff & M	177	4,787 18			
"	" C. H. Denison	"	325 00			
"	" Henry Butman	"	2,207 93			
"	" J. A. Robinson	189	442 71			
"	" profit and loss, 1867	195	14,662 14			
"	" James K. Place	196	25,434 12			
"	" J. D. Sparkman	"	8,476 04			
"	" balance	....	4,280 00			
			$1,288,557 91			$1,288,557 91
				1867. Nov. 20	By balance	$4,280 00

973 A. There was nothing then ascertained that I know of which should have been credited to it.

Q. 389. Will you state how long prior to the 31st of December, 1866, Sackett, Belcher & Co. had owed you $6,078.19?

A. They owed us for goods sold to them in 1866—goods they did not pay for; that debt matured in June and July, 1866; the goods on which the debt arose were sold in April and May. The interest account represents interest paid by customers for accounts past maturity—left unpaid and past maturity, discount on paper, &c. We charged to that account interest paid and discount submitted to by us and credited to it interest received by us. Up to the 30th of April, 1866, the balance of interest paid out on account up to that time seems to have been $70,886.47; it don't follow that it is a balance against us, exactly.

Q. 390. That was the excess of interest paid out by you above what you had received or charged?

A. At that time I suppose that would be correct; there might have been considerable due to us not charged.

Q. 391. Was that balance ever reduced in the year 1866?

A. It was one of those imaginary accounts, and would finally go into the profit and loss account.

Q. 392. According to the showing on the ledger, was that balance reduced in 1866?

A. It is difficult to answer that question, because a great deal of interest of the concern goes into the merchandise account, and transactions on merchandise involve the payment of interest; and we don't look at the interest account to show us anything at any time during the year, except at the close of the year, and then it is balanced by profit and loss account.

Q. 393. Judging from the interest account on your book, and answering the question by referring to that account, does there appear to be any reduction of that balance in 1866?

A. I do not see any account that reduces it much; still that does not indicate anything that I know of.

Q. 394. In reference to these items which are charged to the profit and loss account:

974

1866.				
Dec. 31	To H. W. Davidson	84	$100	00
"	" J. H. Studwell	84	200	00
"	" importation from Rio	388	19,780	61
"	" F. H. McCready	93	333	80
"	" Groom Bro's & Co	92	1,107	71
"	" E. W. Van Benschoten	94	41	47
"	" insurance	96	19,311	67
"	" U. S. taxes	96	16,595	92
"	" storage	96	20,353	41
"	" brokerage	96	48,624	28
"	" express	96	52,641	71
"	" interest	96	106,109	19
"	" Jackson & Pickert	94	1,178	64

Are you able to say the particular period at which those losses or reductions, or charges on your business and its profits, accrued?

A. It would be difficult to tell when all of them accrued; I might tell some of them.

Q. 395. When you executed a conveyance of the 43d-street property to M'r Wallis, with the expectation that he would convey it to M'r's Place, did you intend that your creditors should have any benefit from that property?

A. That was conveyed to M'r's Place in part payment for a mortgage she gave on her property in 5th avenue.

(Answer objected to by plaintiff's counsel.)

Q. 396. The question I asked was whether you intended that your creditors should have any benefit from that property?

A. The money received for the mortgage given went to pay one of the creditors of J. K. Place & Co.

Q 397. When you executed the conveyance to M'r Wallis with the intention that he should execute a conveyance to M'r's Place, did you intend that the creditors of J. K. Place & Co., or your own creditors, should have any benefit from the 43d-st. property or its avails?

A. No other avails were received, except indicated in my answer; the money received for the $30,000 mortgage went to pay one of the creditors; in that way the creditors were benefited.

Q. 398. What do you mean by the money received for the $30,000 mortgage?

A. Money borrowed from Joseph S. Barker.

975 Q. 399. How did he pay you that $30,000?

A. He had money at the time deposited to his credit to more than that amount in J. K. Place & Co.

Q. 400. Then that mortgage was given to secure an existing debt, was it?

A. No; it was not given to secure an existing debt.

Q. 401. What had it to do with an existing debt?

A. Joseph S. Barker had deposited in J. K. Place & Co. about $60,000 at that time, and I was apprehensive that he would call for a part of it to invest, as was his custom, on bond and mortgage in the spring; and to retain the money in the concern, I induced him to take a mortgage on that property in part payment of that debt of $60,000; I gave him the option, after consultation with my wife, of taking $30,000 or $40,000; he said he would take $30,000; I then told her if she would give a mortgage on the property to that amount that I would turn out to her other property in payment of that $30,000.

(So much of the answer as purports to state what M'r Place stated to M'r's Place is objected to as irresponsive.)

Q. 402. Will you look at the journal of J. K. Place & Co., page 144, under date of August, 1867, the following entries:

132. E. B. Place—"Bond and Mortgage."
132. To M'r's Jane C. Place—"Bond and Mortgage."
For transfer of mortgage on 132 and 134 Front st., June 1, '67 ..... $78,600 00

104. Jos. S. Barker—
4. To M'r's Susan A. Place.
For mortgages on above property—dated May 1st, 1867 ..... $30,000 00

And state whether or not you directed those entries to be made?

A. I suppose so; I gave the substance of the transaction to the book-keeper, and he framed these entries according to his own judgment.

Q. 403. How near to the time of making these entries—August, 1867—was it that you executed a conveyance of the 43d-street property?

A. I do not remember the date, but it was at the date of the instrument—the conveyance shows; I will have to refer to that to
976 refresh my memory as to the date.

Q. 404. Will you please state why your books, at the time of showing the execution of the mortgage to Joseph S. Barker, don't show the execution of the conveyance by you to M'r Wallis of the 43d-street property and the transfer of stock to J. T. Sparkman? In other words, state why your books were made up so as to show M'r's Place to be a creditor to the amount of $30,000, without showing that you had provided for the payment of that credit.

A. No reason for it that I know of; the entry might be more full.

Q. 405. Look at the paper now shown you, marked "Exhibit BB," of which a copy is embraced in M'r Burritt's deposition, and state if you recognize that or anything about it.

A. I recognize it as a paper drawn up by M'r Burritt and M'r Morgan together, but for what purpose I could not say.

Q. 406. Do you remember the creditors' meeting held in February, 1868?

A. Yes, sir; I remember it.

Q. 407. Were there any preparations made for that meeting in the way of preparing statements?

A. I do not remember what statements were made.

Q. 408. I ask if any preparations were made in the way of preparing statements?

A. I do not remember whether statements were prepared for that occasion or not.

Q. 409. Were any statements made?

A. I do not remember that there were.

Q. 410. Look at this paper and say in whose handwriting are the words in pencil opposite the item Susan A. Place: "Charge $30,000, and credit S. P. & King $20,000; stable $10,000."

A. I am not certain in whose handwriting that is; it must have been carelessly written.

Q. 411. Look at the words "P. & L. on gold," in pencil, opposite the item "H. N. Titus," and say in whose handwriting they are.

A. It looks like mine; I think very likely it is mine.

Q. 412. Do you know of any handwriting that it more resembles than it does yours?

A. No.

Q. 413. Do you know any handwriting that the words to which your attention was previously called more resemble than they do yours?

A. I think very likely it may be mine.

Q. 414. Is that your opinion and belief?

977 A. I think it very probable.

Q. 415. You don't mean to say they are not?

A. I don't say they are not; they are so carelessly written that I could hardly tell.

Q. 416. Look at the initials "J. K. P.," in pencil, opposite the item "Real estate, Binghamton," and the initials "J. K. P.," opposite the item "Humboldt Insurance Company," and the initials "J. K. P.," opposite the item "Corn Exchange Insurance Company," and state in whose handwriting those initials are.

A. They look like mine.

Q. 417. Do you believe them to be yours?

A. I am inclined to think they are mine.

Q. 418. Have you any doubt that they are yours?

A. I should think they were mine.

Q. 419. Look at the words "E. L. Fancher and others," opposite the item "Susquehanna Seminary, Binghampton," and say in whose handwriting those words are, in your opinion.

A. It looks like my handwriting.

Q. 420. Do you believe it to be yours?

A. I presume it is.

Q. 421. Will you state when those pencil-entries were made on that paper?

A. I do not know; I do not know the object of the paper; I do not know at all; it don't seem to be headed; it don't show for what purpose it was drawn.

Q. 422. Is it in the usual form of a trial-balance?

A. Trial-balance, where the names are written out, would be in that form.

Q. 423. And the trial-balance consists of transcripts from the ledger, does it not?

A. It consists of balances from the ledger.

Q. 424. Were the assets in the left-hand column of figures and the debts in the right-hand column?

A. The debits are in the left-hand column and the credits in the right-hand column. I should not call them assets, because it does not show, strictly, the assets.

Q. 425. Don't it embrace the assets?

A. It don't embrace the assets; it is not for that purpose—to show the assets.

Q. 426. What is the purpose?

A. It is to ascertain the correctness of the figures on the ledger.

Q. 427. It is purely arbitrary and fictitious?

Q. 428. The object is to have it purely arbitrary and fictitious?

978 A. I don't say it is arbitrary and fictitious; it is nothing more than a memorandum.

Q. 429. What is any entry on your books but a memorandum?

A. You may call it what you please.

Q. 430. What is the difference between a memorandum in the form of a trial-balance and any other memorandum on your books, in respect to its truth and accuracy?

A. A trial-balance may be taken off to show the balances on the books without having anything on it to show the condition of the concern; that is why I harp so on trial-balance; it is such a very common thing to take it off without any regard to showing the condition of the concern; it is not intended to show the condition of the concern.

Q. 431. You could not ascertain the condition of the concern from it?

A. If it was accurately taken off, and everything put on it for that purpose, it could perhaps; but then it would have to be picked out by the book-keeper.

Q. 432. When were those pencil-entries put on that paper?

A. I don't remember now; it is a loose sheet of paper without any heading; and what it was made up for I could not tell now, or why these pencil-marks should be on that paper.

Q. 433. Was that paper in existence before your failure?

A. I don't know what paper it is.

Q. 434. I asked you that question, whether it was in existence before your failure?

A. I don't know anything about it, whether it was or not.

Q. 435. Will you look at it, and say whether the Fifth-avenue property is down there, either among the debits or credits?

A. I don't know as it makes any difference whether it is or not; I don't know what the paper is for.

Q. 436 Is there any entry of the Fifth avenue property on that paper?

A. I will look carefully through it, if you want me to. There is no memorandum of that property that I can see.

Q. 437. Had not the Fifth avenue property account been closed by being charged to you before that paper was made out?

A. I have not the most remote idea when that paper was made up for.

Q. 438. Why did you write on that paper the words, "Charge 30,000, and credit S., P. & King $20,000; stable $10,000"?

979 A. I am sure I do not know.

Q. 439. If, at the time you wrote those words, M'r's Place had been charged $30,000, would you have written this direction?

A. No; if the entry had been made I would not have wanted it made again.

Q. 440. Do you know Anthony McReynolds?

A. I think I have seen him several times.

Q. 441. Had he any connection with the Forty-third-street property; if so, what?

A. I think he was one of the buyers of the Forty-third street property.

Q. 442. Do you remember what he paid for it?

A. I don't remember; it was not a transaction of mine.

Q. 443. Who received the proceeds?

A. I suppose M'r's Place received them.

Redirect examination:

Q. 444. What was the amount of the original investment in Place & Turlay, and by whom was it made?

A. The original amount was $15,000.

Q. 445. By whom and when was it made?

A. Made by J. K. & E. B. Place.

Q. 446. The firm?

A. The firm of J. K. & E. B. Place, in my name.

Q. 447. Do you remember when, and give me the year, as near as you can recollect?

A. I think it was in 1864.

Q. 448. When, if ever, did that interest cease to be an investment of the firm of J. K. & E. B. Place, and to whom did it pass, and when?

(Objected to by plaintiff's counsel as calling upon the witness not to state his knowledge or recollection of facts, but to state the contents of papers and his construction of them, and as involving a question of law.)

A. Some time in the last half of the year 1865 M'r Sparkman sold out his interest to J. K. Place and E. B. Place.

Q. 449. Individually?

A. Individually; for which they agreed to allow him about $10,000, which was credited to his account on the books of J. K. & E. B. Place, and charged to Place & Turlay, account No. 1.

Q. 450. Is that the way he was paid for his interest in that investment, by crediting his account with about $10,000?

A. That was the way he was paid.

Q. 451. Was there ever any other money added to that investment, either by the firm of J. K. & E. B. Place or by the firm

980 of J. K. Place & Co., or by either of the three parties composing those firms, at any time after the original investment?

A. No other money invested in that concern by the parties referred to.

Q. 452. Was that venture estimated at any other value than the original investment of $15,000 at any time during its existence?

A. Not on the books of J. K. & E. B. Place.

Q. 453. Was it outside or independent of the books so estimated?

A. Yes; it was estimated at $60,000; that is, $45,000 had been made in the concern on the $15,000 invested.

Upon the deposition being read to the witness, he states that he wishes it understood that the evidence on page 35 was given in answer to questions put by plaintiff's counsel, and he wishes the questions and answers put down together; and they are accordingly inserted as follows, to be in lieu of questions 195 and 197 on page 35, and the answers thereto:

Q 195. Out of what resources did you expect to meet your contracts for the 5th avenue property?

A. Out of the money that was due to me by J. K. & E. B. Place and what I had in the concern of J. K. & E. B. Place.

Q. 196. Do you mean out of the $170,000?

A. Yes; it was out of that and other property which I had.

Q. 197. What other property?

A. I haven't it clearly defined in my mind where it should come from; but I was to pay it out of what I was worth.

Q. 198. Did you intend that your creditors should get their money out of the 5th-avenue property?

A. No, sir.

Q. 199. Did you intend that your wife should have it clear of your creditors?

A. Yes.

Q. 200. But you intended to go on and spend your own money on that house?

A. Yes.

Q. 201. And if not, whose did you intend to spend?

A. My own, of course.

Q. 202. But you did not intend that your creditors, or any of them, should get their money back out of that property?

A. No, sir.

Q. 203. You intended that your wife should hold it independent of the creditors?

A. Yes, sir; because I supposed I was abundantly able to pay

981 all my debts and have a large sum left beside.

Q. 204. You intended that your profits should go into the partnership?

A. Yes.

Defendant's Exhibit A.

Agreement for building.

Articles of agreement made this first day of November, one thousand eight hundred and sixty-five, between James K. Place, of the city and county of New York, party of the first part, and Morgan & Anderson, of the city of Brooklyn, county of Kings, parties of the second part.

First. The said parties of the second part doth hereby, for themselves, their heirs, executors, administrators, or assigns, covenant,

promise, and agree with and to the said party of the first part, his heirs, executors, administrators, or assigns, that they, the said parties of the second part, their heirs, executors, administrators, or assigns, shall and will, for the consideration hereinafter mentioned, on or before the first day of July next ensuing, well and sufficiently erect and finish all the stonecutters' department of a house on the corner of Fifth avenue and Forty-seventh street, New York, agreeably to the drawings and specifications made by E. L. Roberts and signed by the parties hereunto annexed, within the time aforesaid, in a good, workmanlike, and substantial manner, to the satisfaction and under the direction of the said E. L. Roberts, to be testified by a writing or certificate under the hand of the said E. L. Roberts; and, also, shall and will find and provide such good, proper, and sufficient material of all kinds whatsoever as shall be proper and sufficient for completing and finishing all the stonecutters' department and other works of the said building mentioned in the aforesaid specification, for the sum of twenty-one thousand five hundred dollars, ($21,500.00.)

And the said party of the first part doth hereby for himself, his heirs, executors, administrators, or assigns, covenant, promise, and agree with and to the said parties of the second part, their heirs, executors, administrators, or assigns, that he, the said party of the first part, his heirs, executors, administrators, or assigns, shall
982 and will, in consideration of the covenants and agreements being strictly performed and kept by the said parties of the second part as specified, well and truly pay, or cause to be paid, unto the said parties of the second part, their heirs, executors, administrators, or assigns, the sum of twenty-one thousand five hundred ($21,000.00) dollars, lawful money of the United States of America, in manner following:

$3,000.00 when the stone-work is up to the top of principal floor-beams.
4,500.00 when all up to the under side of second-story beams.
3,500.00 when all up to the under side of third-story floor-beams.
3,000.00 when the wall and chimneys are complete.
1,000.00 when the stoop is set.
2,500.00 when the portico is set.
2,000.00 when the newels, rails, coping, and balusters are set.
2,000.00 when all the works are completed as per specifications, drawing, and contract.

Provided, that in each of the said cases a certificate be obtained and signed by the said E. L. Roberts.

And it is hereby further agreed by and between the said parties:

First. The specifications and the drawings are intended to co-operate, so that any works exhibited in the drawings and not mentioned in the specifications, or vice versa, are to be executed the same as if it were mentioned in the specifications and set forth in the drawings, to the true meaning and intention of the said drawings and specifications, without any extra charge whatsoever.

Second. The contractor, at his own proper cost and charges, is to provide all manner of materials and labor, scaffolding, implements, moulds, models, and cartage of every description, for the due performance of the several erections.

Third. Should the owner at any time during the progress of the said building request any alteration, deviation, additions, or omissions, from the said contract, he shall be at liberty to do so, and the same shall in no way effect or make void the contract, but will be added or deducted

from the amount of the contract, as the case may be, by a fair and reasonable valuation.

983 Fourth. Should the contractor, in the opinion of the architect, at any time during the progress of the said works, refuse or neglect to supply a sufficiency of materials or workmen, the owner shall have the power to provide materials and workmen, after three days' notice, in writing, being given to the contractor to finish the said works, and the expense shall be deducted from the amount of the contract.

Fifth. Should any dispute arise respecting the true construction or meaning of the drawings or specification, the same shall be decided by E. L. Roberts, and his decisions shall be final and conclusive; but should any dispute arise respecting the true value of the extra work, or of the works omitted, the same shall be valued by two competent persons—one employed by the owner and the other by the contractor—and those two shall have power to name an umpire, whose decision shall be binding on all parties.

Sixth. The owner shall not, in any manner, be answerable or accountable for any loss or damage that shall or may happen to said works, or any part or parts thereof respectively, or for any of the materials or other things used and employed in finishing and completing the same, (loss or damage by fire excepted.)

In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

MORGAN & ANDERSON. [L. S.]

Sealed and delivered in presence of—
E. L. ROBERTS.

Cross-examination resumed:

I paid W. & J. Sloan for the carpets in the usual way; they had cash and they had a note, I believe; I do not remember when that note matured.

Q. 454. Look at this check—

"NEW YORK, *May* 30, 1867.

"Metropolitan National Bank pay to the order of Mess'rs W. & J. Sloan forty-seven and $\frac{65}{100}$ dollars.

$47.$\frac{65}{100}$.

(Signed) "J. K. PLACE & CO."

(On the margin:) J. K. & E. B. Place.

(Endorsed:) "W. & J. Sloan."

984 and say who signed that check.

A. That was signed and filled up by me; there is a part of it in Burritt's handwriting—the word "National;" what that was given for I don't know; J. K. Place & Co. had no dealings with W. & J. Sloan; I suppose the check was given for some part of the carpeting.

Q. 455. Look at this check now produced and shown to you—

"NEW YORK, *August* 29, 1867.

"Manufacturers' National Bank pay to the order of J. K. Place's note due this day sixteen hundred and thirty-five and $\frac{93}{100}$ dollars.

$1,635.$\frac{93}{100}$.

(Signed) "J. K. PLACE & CO.,
"By L. W. BURRITT, J'R, *Att'y.*"

Certified: "Fountain, cashier."

(On the margin:) J. K. Place & Co.

and say whose handwriting that check is in, and what it was given for.

A. It seems to have been given for J. K. Place's note, dne that day; the note was given for part of the bill of W. & J. Sloan's for carpets for the 5th-avenue house; I don't know what was the entire amount of their bill; I don't remember how the rest of it was paid—I suppose in the usual way; I never had a bank account; the usual way was to pay my bills out of the firm by giving a check for them.

Q. 456. Out of the firm's funds?

A. Out of my funds, when I got them, I suppose; I drew them; they were charged to me.

Q. 457. Will you state the exact point of time when the firm's funds became yours?

A. The moment I got them; I suppose they were charged to my account and were mine.

Q. 458. Suppose you had taken the entire property of the firm, not consisting of cash, at a time when you had no interest in the firm property, and at a time when the firm had no surplus above its debts—will you state the exact moment of time when, according to your view, that became your property?

(Objected to by M'r Hayward as calling upon the witness for an opinion on a question of law, and which he is not bound to answer;
985 and as incompetent.)

A. I don't know that I am called upon to answer such a question.

Re-examined by counsel for executors:

I have read the testimony of William P. Stymus, as printed in the first volume of testimony in this case.

Q. 459. He there states that you and M'r's Place called upon him and contracted for the furniture for the 5th-avenue property; will you state, precisely, whether that is correct or not?

A. I suppose that is substantially true; we went there together, and M'r's Place selected the furniture; it was ordered while we were there.

Q. 460. Ordered by whom? What I want to ask is, did you order and agree to pay for that furniture?

A. It was charged to me, and he looked to me for his pay.

Q. 461. You say it was selected by M'r's Place and charged to you, and they looked to you for payment?

A. Yes.

Examined by counsel for Burritt & Sheffield:

Q. 462. When was the assignment by you and M'r Sparkman to Burritt & Sheffield executed?

A. I think it was the 23d of December, 1867.

Q. 463. Where?

A. It was in the office of Marsh, Coe & Wallis.

Q. 464. Who were present?

A. M'r Sheffield and M'r Burritt, I think, and yourself, and myself, and M'r Sparkman.

Q. 465. Did they all execute it at the same time?

A. All executed it at the same time.

Q. 466. What was then done with it, and to whom delivered, if anybody?

A. Delivered to Burritt & Sheffield—both of them, I believe.

Q. 467. What did they do?

A. They accepted the assignment.

Q. 468. Did you go anywhere—to the store, or anywhere else?

A. I went back to the office.

Q. 469. Was any delivery made of the assigned estate to them?

A. Yes; everything was handed over in due form to the assignees that way, from our attorney at the time.

Q. 470. What was done in regard to a sign at that time, if anything?

A. Sheffield put up his sign as assignee.

Q. 471. Where?

A. I think it was put on the signboard on the outside and on the door of the office.

Q. 472. Was that on the same day that the assignment was
986 executed that the delivery of the property was made?

A. It was delivered at once; there was no delay about it.

Q. 473. Since that time what, if anything, have you or M'r Sparkman had to do with the assigned estate—of any part of it; anything?

A. We have had nothing to do with it. As a broker, I believe I did negotiate the sale of some part of the property.

Q. 474. At whose request?

A. M'r Sheffield's.

Q. 475. Was that you or the brokers with whom you were?

A. The firm of Place, Gibson & Co.

Q. 476. Otherwise have you had anything to do, directly or indirectly, with the assigned estate or any part of it?

A. Nothing.

Cross-examination resumed:

I did not hand over the Fifth-avenue property to Burritt & Sheffield; I continued to live there until it was sold.

Q. 477. Did you hand over the Forty-third-street property?

A. No; we handed over everything that belonged to the firm.

(Answer objected to.)

Q. 478. Did you hand over the 43d-street property?

A. No.

Q. 479. Did you hand over any Government bonds?

A. No.

Q. 480. Any stock in Sparkman, Place & King?

A. Yes; about $500.

Q. 481. Did you hand over any lands in Binghamton?

A. No.

Q. 482. Any bonds and mortgages on property in Michigan?

A. No.

Q. 483. Did you hand over any of the furniture in the 5tha-venue house?

A. No.

Q. 484. When you made the assignment did you intend to hand over the 5th-avenue property or the furniture, or the 43d-street property, or Government bonds, or any more than the five shares of stock in Sparkman, Place & King, or any of the property in Binghamton?

A. No; I believe none of it.

Q. 485. Did you intend to hand over any of them?

A. I don't remember to have formally handed over any of those that you have named. I didn't know but the firm might have an interest in some portion of them, and that would be a matter to be determined afterwards.

Q. 486. Did you intend to hand over any of these items to your assignee?

987 A. I intended to hand over anything that belonged properly to the firm or to myself.

(Answer objected to.)

Q. 487. Did you intend to hand over the 5th-avenue property?

A. I don't remember what my intention was about it.

Q. 488. Was your intention expressed at the time in the inventory which you prepared to file in the county clerk's office?

A. The inventory also—the assignment also. I don't remember what the detail of the inventory was just now.

Q. 489. Did you leave out of the inventory anything that you considered belonged to the assignees? If so, state what it was.

A. I don't remember what the inventory contains. I made an inventory, I suppose, of all that I supposed to belong to the concern and myself individually.

Q. 490. Did you embrace in the inventory all that you intended voluntarily to pass over to the assignees?

A. I can't answer any more fully.

Q. 491. Did you leave out of the inventory anything that you intended voluntarily to pass over to the assignees?

A. I can't recollect anything.

Q. 492. Did Place, Gibson & Co. sell some African ginger for Burritt & Sheffield?

A. Yes; I believe they did.

Q. 493. To whom?

A. I think Rufus Story.

Q. 494. Did they receive the proceeds?

A. The assignees, I suppose, received the proceeds.

Q. 495. I say did Place, Gibson & Co. receive the proceeds?

A. No; it is not proper for a broker to receive the proceeds of what he sells.

Q. 496. I only ask, did they?

A. No.

Q. 497. Have Story & Co. paid for the ginger?

A. I suppose so. The broker simply negotiates the sale; that is the end of it, so far as he is concerned.

Q. 498. Do you know that Story paid for that ginger?

A. I don't know that they bought any, but I think there was some sold to them.

Q. 499. By whom?

A. Burritt & Sheffield.

Q. 500. Through Place, Gibson & Co.?

A. I don't remember distinctly; I only have a memory that we sold something for them.

Q. 501. Did you sell some African ginger to Rufus Story & Co.?

A. I think so.

Q. 502. Did Story & Co. pay for it?

988 A. You had better ask Burritt & Sheffield; I don't know whether they did or not.

Q. 503. Did Place, Gibson & Co. receive anything for it?

A. No, as I said before.

Q. 504. Did W'm H. Gibson receive anything for it?

A. You can ask him; I don't know.

Q. 505. He not being here, I ask you.

A. I don't know.

Q. 506. Those pictures that were embraced in that mortgage to John W. Cross, when did you buy those?

A. I don't remember.

Q. 507. How did you pay for them?

A. I don't remember that.

Q. 508. Did you buy them before 1866?

A. I don't remember when they were bought, now.

Q. 509. Will you say that they were bought before 1866?

A. I don't remember.

Q. 510. (By M'r Wallis, counsel for Burritt & Sheffield.) You and M'r Sparkman made an inventory of your assigned estate, did you not, after the assignment was made?

A. I believe so.

Q. 511. Did you intend or otherwise that that inventory should comprise all of your estate that was assigned?

A. That is what I suppose.

Q 512. Whatever was put in that inventory properly belonged to the firm or to the individual members of the firm, did it not?

A. That is what I suppose.

Q. 513. Those Michigan mortgages, they were not here at all; they were out in Michigan, were they not?

A. They were out there.

Q. 514. And the Binghamton lands, the farm there, was that included in the inventory?

A. I think it was.

Q. 515. And the interests of Place & Sparkman in those bonds and mortgages were included in the inventory?

A. Yes.

Q. 516. (By M'r Wallis, counsel for Joseph S. Barker.) What, if anything, did you give M'r's Place for this mortgage of $30,000 to Joseph S. Barker?

A. I gave her the 43d-street property and the stock in Sparkman Place & King—to the extent of $19,500 in Sparkman, Place & King—and the stable for the balance of the $30,000, for which she gave a mortgage on that property.

Q. 519. What had that stable cost?

A. The stable, with the digging of the lots in front, and taxes,
989 &c., charged to it, cost about $18,000 or $19,000.

Q. 518. What was it worth at the time you conveyed it?

A. It was thought to be worth about $10,500.

Q. 519. The mortgage to M'r Barker was given to secure how much—$30,000?

A. Yes; to secure $30,000.

Q. 520. It was part of the money then on deposit with J. K. Place & Co.?

A. Yes.

Q. 521. Belonging to him?

A. Belonging to him.

Q. 522. Was the bond and mortgage delivered to Barker shortly after its date?

A. It was delivered to Barker.

Q. 523. Delivered what time, about?

A. About the time of the date.

Q. 524. Had he at or prior to that time made any request for the payment of any part of the money on deposit? I don't want to know what the request was.

A. He made no formal request, but I supposed from his habit that he

would probably invest part of it on bond and mortgage on the first of May, as I——

Q. 525. Had he been in the habit of depositing money with your firm and investing it on bond and mortgage at different places?

A. He had been in the habit of depositing it and investing it; I don't know how, but I knew he had some in bond and mortgage.

Q. 526. Was any policy of insurance transferred to him?

A. Yes; a policy of insurance was transferred.

Q. 527. Has M'r Barker, so far as you know, always had possession of that bond and mortgage and these policies of insurance?

A. Yes; he has had them.

Q. 528. (By plaintiff's counsel.) What do you mean—what do you refer to when you say bond and mortgage were delivered?

A. They were registered and delivered in the usual way.

Q. 529. Who delivered them?

A. I rather think they were delivered by the attorney, M'r Wallis.

Q. 530. Did you see him deliver them?

A. I don't remember distinctly about it now.

Q. 531. Do you undertake to say as a matter within your recollection that M'r Barker has testified untruly in saying that he never saw the bond and mortgage before they were recorded?

A. M'r Barker is incapable of testifying to an untruth.

990 Q. 532. Do you mean to be understood as contradicting any statement made by him?

A. Not at all; no.

Q. 533. What did M'r's Place give you, or the firm, for the 5th-avenue property?

A. Nothing.

Q. 534. Had the stable in 43d street ever been put up at auction before August, 1867, or before the execution of the conveyance of the same to M'r Wallis?

A. Yes; before the execution to M'r Wallis.

Q. 535. Before what?

A. Oh, no.

Q. 536. When was the first time it was put up at auction?

A. I don't remember the date.

Q. 537. It was after the transfer to M'r Wallis, wasn't it?

A. I don't remember.

Q. 538. Was it not some time in 1868 that it was put up at auction?

A. I don't remember the date.

Q. 539. Was it not after the assignment to Burritt & Sheffield?

A. Yes; I think it was.

Q. 540. Up to the time you wrote in pencil, on the paper which was exhibited to you before, the words "Charge S. P. & King $20,000; stable $10,000," had you ever made up your mind what to charge M'r's Place for the 43d-street property?

A. I think very likely it had been charged then. I don't know when that memorandum was made.

Q. 541. Why was it that, if you had made up your mind to charge her $10,500 for the 43d-street property, and $20,000 for the stock, you did not carry out that intention; why did you alter that and charge her $19,500 for the stock and $10,500 for the stable?

A. The memorandum that you speak of I don't know anything about; the thing is not dated, and I don't know what it was got up for, nor what led to the memorandums; therefore, I do not care to answer any questions about it, because I don't remember anything about it.

Q. 542. Wasn't that 43d-street property sold to Anthony McReynolds for $16,000?

A. I don't remember distinctly what it was sold for.

Q. 543. Was it sold to him for as small a sum as $10,000?

A. I don't remember the sum it was so'd for.

Q. 544. You didn't form your estimate of its value, then, or of the amount with which M'r's Place was chargeable for that stable,
991 from any sale at auction of that or the adjoining property, did you?

A. I don't remember what I did base the value upon.

J. K. PLACE.

Subscribed and sworn to before me November 5th, 1870.

R. E. STILWELL,
Special Examiner.

992 U. S. district court.

JOHN SEDGWICK, AS ASSIGNEE, &C.,
vs.
J. K. PLACE ET AL.

Before Richard E. Stilwell, esq., special examiner.

NEW YORK, *Nov. 2d*, 1870.

THOMAS T. SHEFFIELD called and examined by counsel for defendants Burritt and Sheffield.

Q. 1. Are you one of the assignees of James K. Place & Co.?

A. I am, sir.

Q. 2. When was that assignment executed?

A. On the 23d December, 1867.

Q. 3. Where?

A. In the office of Marsh, Coe & Wallis.

Q. 4. On the day it bears date?

A. Yes.

Q. 5. Who was present?

A. James K. Place, J. D. Sparkman, yourself, (M'r Wallace,) I think, M'r Marsh, M'r Burritt, and myself.

Q. 6. What was done with it after it was executed? Was it delivered to anybody; and, if so, to whom?

A. It was delivered to M'r Burritt and myself.

Q. 7. What did you do after the assignment was delivered to you?

A. We went with M'r Sparkman to the premises and he delivered up to us the property in the store, the books, and papers, and goods.

Q. 8. Everything that was there?

A. Yes.

Q. 9. What did you do then?

993 A. Took possession, and put up a sign.

Q. 10. Where did you put the sign up?

A. On the door, and in the front window of the office.

Q. 11. What was that sign.

A. Office of the assignee of J. K. Place & Co.

Q. 12. Who has held possession of the assigned estate since the execution of that assignment, up to the time it was delivered to the receiver?

A. M'r Burritt and myself. I had principal charge of it. M'r Burritt was there every day. M'r Burritt and myself had charge of it.

Q. 13. Was that possession exclusive or otherwise?
A. Exclusive.
Q. 14. What had Place & Sparkman, the assignors, to do with it, if anything?
A. Nothing to do with it.
Q. 15. Did not interfere with it in any way?
A. No.
Q. 16. And you maintained that possession until after the order of the court delivering it over to Mr. Sedgwick, as receiver?
A. Yes.

T. T. SHEFFIELD.

Subscribed and swôrn to before me this 12th Nov., 1870.
R. E. STILWELL,
Examiner, &c.

U. S. district court.

JOHN SEDGWICK, AS ASSIGNEE, &C., }
vs.
JAMES K. PLACE ET AL. }

For the purposes of this action, and not otherwise, the annexed statement of facts is admitted to be true, and this admission and statement may be read in evidence by either party on the hearing of this cause.
Dated November 12th, 1870.

C. W. BANGS,
Sol'r for Pl'ff.
MARSH & WALLIS,
Sol'r for d'f't, Burritt and Sheffield.

994 *Statement of facts.*

On or about the seventeenth day of June, eighteen hundred and sixty-eight, John Sedgwick, as assignee in bankruptcy of James K. Place and James D. Sparkman, filed in the circuit court of the United States for the southern district of New York a bill of complaint, in the words and figures following:

"To the honorable the judges of the circuit court of the United States in and for the southern district of New York, in the second circuit:

"John Sedgwick, as assignee in bankruptcy of James K. Place and James D. Sparkman, formerly copartners transacting business at the city of New York, in the county of New York, in the State of New York, brings this his bill of complaint against the said James K. Place and James D. Sparkman, and against Lewis W. Burritt, j'r, and Thomas T. Sheffield, of the city of New York.

"And thereupon your orator complains and says that heretofore, and on or about the twenty-seventh (27th) day of February, one thousand eight hundred and sixty-eight, (1868,) the said James K. Place and James D. Sparkman, pursuant to the eleventh (11th) section of an act of the Congress of the United States, approved March second, (2d,) one thousand eight hundred and sixty-seven, (1867,) entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' applied by petition, addressed to the judge of the said southern district of New York, being the district in which said petitioners had carried on business for the six (6) months next immediately preceding

the time of filing such petition, setting forth the places of residence of said petitioners, also their inability to pay all their debts in full, their willingness to surrender all their estates and effects for the benefit of their creditors, and their desire to obtain the benefit of said act; and annexed to their said petition a schedule, verified as required by said section, purporting to contain a full and minute statement of all
995 their debts, and all other particulars required by the said section; but whether or not the said schedule did contain a full and complete statement of all the debts of said petitioners, and the other particulars required by said section, your orator is not in fact informed, and he does not so admit.

"And the said petitioners also annexed to their said petition a paper and papers purporting to be an inventory, verified as required by said act, and purporting to be an accurate inventory of all their estate, both real and personal, under the said act; but whether or not the said inventory was in fact accurate, and whether the same contained a description of all the estate, both real and personal, of said petitioners, your orator is not in fact informed, and he does not so admit.

"Your orator further shows that, upon the filing of the said petition and of the alleged schedule and inventory thereto annexed, such proceedings were had that, afterwards, at a sitting of the said district court in bankruptcy, the said petitioners were by the said court adjudged to be bankrupt; and such proceedings were had in said court that afterwards, and on or about the twenty-seventh (27th) day of April, one thousand eight hundred and sixty-eight, (1868,) your orator was, pursuant to said act, duly appointed to be the assignee in bankruptcy of the estate of the said debtors; and your orator has accepted such appointment and entered upon the performance of the duties devolved upon him thereby.

"Your orator further shows unto your honors that, as he is informed and believes, the said James K. Place and James D. Sparkman had, in fact, for more than four months prior to the filing of their said petition been insolvent, and that on or about the twenty-third day of December, one thousand eight hundred and sixty-seven, the said debtors, being so insolvent, and in contemplation of insolvency, executed under their hands and seals, and delivered to the said Lewis W. Burritt, jr. and Thomas T. Sheffield, an instrument in writing, bearing date at the
996 city of New York on the said twenty-third (23d) day of December, one thousand eight hundred and sixty-seven, (1867,) purporting and setting forth that the said James K. Place and James D. Sparkman did thereby assign, transfer, and convey all the property and effects, jointly and severally, of every description, to them, the said Place and Sparkman, upon trust, to convert the same into money, and with the proceeds thereof, (after paying therefrom the costs, charges, and expenses of executing the trusts thereby created, so far only as they might lawfully pay the same,) pay all the debts and liabilities of the said Place and Sparkman, jointly and severally, of whatsoever kind, and to whomsoever the same might be due and owing, without any preference or priority whatever, except only so far as is provided by the laws of the State of New York and of the United States, so that if such proceeds should be sufficient for that purpose every claim and demand in law or equity against the said debtors, jointly or severally, whether due or to become due, should be fully paid and satisfied; but if the said proceeds should be insufficient to pay the said debts and liabilities in full, then to pay and divide the whole of such proceeds among the creditors of said Place and Sparkman, as joint and several debtors, pro rata, and without any

priority or preference, except as aforesaid; which said instrument was thereupon accepted by the said Lewis W. Burritt, j'r, and Thomas T. Sheffield, and under color thereof the said Lewis W. Burritt, j'r, and Thomas T. Sheffield claimed to be entitled to the property and effects purporting to be conveyed thereby, and did, in fact, take possession thereof and proceed to convert the same into money.

"And your orator further shows unto your honors that, at the time of the making and delivering of said instrument, the said grantees therein named, namely, the said Lewis W. Burritt, j'r, and Thomas T. Sheffield, had reasonable cause to believe that the said James K. Place and James D. Sparkman were in fact insolvent, and that such assignment and conveyance was made in fraud of the provisions of said act of Con-
997 gress, and with a view to prevent the property of said petitioners from coming to their assignee in bankruptcy, and to prevent the same from being distributed under the said act of Congress; and the said assignment, transfer, and conveyance was made out of the usual and ordinary course of business of the said debtors.

"And your orator further shows that, by means of the premises, and by force of the said act, the property and effects of the said petitioners, purporting to have been conveyed by the said instrument in writing, and now in possession of said Lewis W. Burritt, j'r, and Thomas T. Sheffield, as aforesaid, have become vested in your orator, in his official capacity aforesaid, but that the said Lewis W. Burritt, j'r, and Thomas T. Sheffield withhold the same from your orator, and, although requested to deliver the same to your orator, have not delivered the same, nor any part thereof, to your orator, nor rendered to him any account out of or concerning the same; and that by means of the aforesaid acts of the said James K. Place and James D. Sparkman, and Lewis W. Burritt, j'r, and Thomas T. Sheffield, the said act of Congress has been, in its operation and effect, and in its provisions, impaired, hindered, impeded, and delayed. And your orator has been and still continues to be hindered, delayed, and impeded in collecting and reducing to his possession the estate and effects so assigned to him as aforesaid, and in the conversion of the same into money, and the distribution of the proceeds thereof.

"All of which acts and doings of the said James K. Place and James D. Sparkman, Lewis W. Burritt, j'r, and Thomas T. Sheffield, are contrary to equity and good conscience, and tend to the manifest wrong and injury of your orator in the premises.

"To the end, therefore, that the said James K. Place and James D. Sparkman, Lewis W. Burritt, j'r, and Thomas T. Sheffield may, if they can, show why your orator should not have the relief hereby prayed, and may, upon their corporal oaths, and according to the best
998 of their knowledge, remembrance, information, and belief, a full, true, direct, and perfect answer make to such of the several interrogatories hereinafter numbered and set forth, as by the note hereafter written they are required to answer, that is to say:

"(1) Whether or not, on the twenty-third (23d) day of December, one thousand eight hundred and sixty-seven, (1867,) the said James K. Place and James D. Sparkman were not insolvent and in contemplation of insolvency.

"(2) Whether or not, on or about the said twenty-third (23d) day of December, one thousand eight hundred and sixty-seven, (1867,) the said James K. Place and James D. Sparkman did not deliver to the said Lewis W. Burritt, j'r, and Thomas T. Sheffield, an instrument in writing purporting to assign, transfer, and convey to the said Lewis W. Burritt, j'r, and Thomas T. Sheffield all the property and effects of the

said Place and Sparkman, jointly and severally, of every description, upon trust, to convert the same into money, and to pay and divide the proceeds thereof to and among the creditors of the said Place & Sparkman, as hereinbefore in your orator's bill of complaint expressly charged.

"(3) Whether the said assignment, transfer, and conveyance was not made out of the usual and ordinary course of business of said Place and Sparkman, and that the said instrument of assignment and conveyance may be decreed to be, as against your orator, absolutely null and void; and that the said defendants may be decreed to render to your orator a full and true account of all the property and effects, jointly and severally, of the said Place and Sparkman, embraced within the said instrument, or purporting or intended to be affected or conveyed thereby, and of the proceeds thereof, and of the disposition heretofore made of the proceeds thereof, and to pay, transfer, and deliver over to your orator all such assigned and transferred property remaining in the hands of said defendants, or either of them, and the proceeds of so much of such property, and such parts thereof, as may
999 have been converted into money by the said defendants, or either of them; and that the said Lewis W. Burritt, j'r, and Thomas T. Sheffield may be restrained by an injunction out of this court from disposing of, parting with, pledging, selling, encumbering, or in any way interfering with the property purporting to be affected by the said instrument; and that a receiver of said property, and of the proceeds thereof, pending this bill, be appointed by your honors, with all the powers of such receivers in like cases.

"May it please your honors, the premises considered, to grant unto your orator not only the writ of injunction issuing out of and under the seal of this court, directed to the said James K. Place and James D. Sparkman, Lewis W. Burritt, j'r, and Thomas T. Sheffield, their attorneys, servants, and agents, enjoining them according to the prayer of this bill, but also the writ of subpœna issuing out of and under the seal of this court, commanding them, and each of them, under a certain penalty therein to be expressed, to be and appear at a certain time to be therein named before this honorable court, to answer your orator's bill of complaint, and to do further and abide whatever this honorable court shall then direct.

"And your orator will ever pray, &c.

"C. W. BANGS,
"*Solicitor for Complainant.*
"T. M. NORTH,
"*Of Counsel for Complainant.*

"UNITED STATES OF AMERICA,
"*Southern District of New York, ss:*

"John Sedgwick, as assignee in bankruptcy of James K. Place and James D. Sparkman, duly appointed under and by authority of an act of Congress, passed March second, (2d,) one thousand eight hundred and sixty-seven, (1867,) entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' being duly sworn according to law, doth depose and say that he is the complainant
1000 named in the foregoing bill of complaint, and that he has read the said bill, and knows the contents thereof; that the matters and things contained and set forth in said bill, so far as they relate to his own acts and deeds are true; so far as they relate to the acts and deeds of other persons he believes them to be strictly true; that unless an injunction is issued according to the prayer of said bill forth-

with, he believes that he shall suffer great and irreparable damage from the violation and infringement of his rights by the defendants above complained of.

"JOHN SEDGWICK.

"Sworn to before me this 16th day of June, 1868.

"R. E. STILWELL,
"*U. S. Comm'r, &c.*"

"NOTE.—The defendants are required to answer all the interrogatories in the bill contained from one (1) to three (3) inclusive."

On the filing of said bill, subpœnas to appear and answer were issued and served on the defendants, and the plaintiff also obtained and served an ex parte order, as follows:

At a term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the court-room of said court, in the city of New York, on Wednesday, the seventeenth day of June, in the year of our Lord one thousand eight hundred and sixty-eight.

Present, the honorable Samuel Blatchford, dist. judge.

JOHN SEDGWICK, AS ASSIGNEE IN BANKruptcy, &c.,
vs.
JAMES K. PLACE, JAMES D. SPARKMAN, LEWIS W. BURRITT, j'r, and THOMAS T. SHEFFIELD.

Upon reading and filing the verified bill of complaint in this
1001 cause, and on motion of F. N. Bangs, of counsel for the plaintiff ex parte: Ordered, That an injunction issue, restraining and enjoining the defendants, and each of them, &c., pending this action, according to the prayer of the bill, and that the defendants do show cause, at a circuit court to be held at the court-rooms aforesaid, on the 20th day of June, 1868, at 11 o'clock in the forenoon, or as soon thereafter as counsel can be heard, why, pending this action, a receiver should not be appointed, pursuant to the prayer of the said bill.

(A copy.)

KENNETH G. WHITE, *Clerk.*

On the return day of said order the defendants appeared before his honor Judge Nelson, and filed affidavits, as follows:

United States circuit court, in equity.

JOHN SEDGWICK, AS ASSIGNEE, &C.,
vs.
JAMES K. PLACE AND OTHERS.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Lewis W. Burritt, junior, and Thomas T. Sheffield, defendants in the above-entitled action, being duly sworn, do depose and say that they have read the annexed affidavit of James K. Place and James D. Sparkman, and know the contents thereof, and that as to the matters therein contained in respect to the making of a general assignment by the said Place and Sparkman to these deponents said affidavit is true; that immediately upon the execution of said assignment these deponents en-

tered upon the discharge of the duties devolving upon them by means thereof, and so far as they were able so to do took into their
1002 own possession the assigned property and effects, and have ever since had the sole and exclusive possession thereof; that at the time of the making of said assignment there were proceedings pending against the assignees, by means of attachments from the courts of the State of New York, that in a measure retarded these deponents in obtaining the absolute possession of so much of the said assigned property and effects as were subjected to such attachments; that, in pursuance of the laws of the State of New York relative to assignments by insolvents, the security to be given by these deponents as assignees as aforesaid was fixed at the sum of three hundred and twenty thousand dollars, which amount of security was given by these deponents, with good and sufficient sureties, by their bond in due form, which was duly filed.

And these deponents further say that, after the filing of said bond, these deponents proceeded with their duties as assignees, and so far as they have been able so to do have converted the assigned estate into money, which money they have deposited in the United States Trust Company, in the city of New York, to their credit, as assignees, where they now have on deposit about the sum of forty-five thousand dollars.

And these deponents further say that, at the time of the making of said assignment, they did not know or have any reason to believe that the said James K. Place and James D. Sparkman, or any other of them, contemplated or had any intention or purpose of making an application, filing any petition, or taking any proceeding whatever under an act of Congress entitled "An act to establish an uniform system of bankruptcy throughout the United States," approved March 2d, 1867, and that said assignment was not made, so far as these deponents had or have any knowledge or information, or any reason to believe, or did believe, with any intent, purpose, or view, directly or indirectly, to prevent the property of the said Place & Sparkman from coming to their assignees in bankruptcy, or to prevent the same, or any part thereof, from being distributed under said act of Congress, or to defeat the object of, or
1003 to impair, hinder, impede or delay the operation or effect of the provisions of the said act of Congress.

And these deponents further say that they have no wish or desire, personally, to continue to execute the trusts contained in said assignment, but are advised and believe that they cannot voluntarily relinquish the same, or the possession of the assigned estate, without danger to themselves and to their sureties, or said bond given on the making of said assignment as aforesaid.

LEWIS W. BURRITT, JR.
THOMAS T. SHEFFIELD.

Subscribed and sworn to before me the 20th June, 1868.

J. BUCHANAN HENRY,
United States Commissioner, Southern District of New York.

United States circuit court. In equity.

JOHN SEDGWICK, AS ASSIGNEE, &C., }
vs.
JAMES K. PLACE AND OTHERS. }

SOUTHERN DISTRICT OF NEW YORK, *ss:*

James K. Place and James D. Sparkman, defendants in the above-entitled action, being duly sworn, do depose and say that they compose

the copartnership-firm of James K. Place & Company, which firm suspended payment of its debts on the twentieth day of November last, (1877;) that shortly thereafter numerous suits were brought against them by the creditors; and for the purpose of effecting a just and equal distribution of their property among their creditors, and for no other object or purpose whatsoever, they made, executed, and de-
1004 livered, on the twenty-third day of December last, (1867,) a general assignment of all their property and effects to the defendants Lewis W. Burritt, j'r, and Thomas T. Sheffield, in trust for the benefit of the creditors, a true copy of which is hereunto annexed; that said assignment was made, executed, and perfected under and in pursuance of the statutes of the State of New York relative to general assignments by insolvent debtors for the benefit of their creditors: that said assignment was, on the said twenty-third day of December, 1867, duly recorded in the office of the clerk of the city and county of New York; and within the time prescribed by the statutes of the State of New York these deponents made up under oath, and filed as required by said statutes, a full and complete inventory of all their estate, real and personal, and of all their debts and liabilities.

And these deponents further say that, at the time of making and delivering of the said assignment, they delivered to the said assignees the assigned property and effects, and ever since that time the said assignees have had the entire and exclusive possession and management thereof.

And these deponents further say that, at the time of the making and delivery of said assignment, they had no purpose or intention of making any application, filing any petition, or taking any proceedings whatever under an act of Congress entitled "An act to establish an uniform system of bankruptcy throughout the United States," approved March 2d, 1867, but, on the contrary thereof, were engaged in making up a statement of their affairs in the hope of making a settlement and adjustment of their debts and liabilities, to the end that the said assignment might be taken up, and they be restored to the possession and management of their property and business.

And these deponents further say that the said assignment was not made with any intent, purpose, or view, directly or indirectly, to pre-
vent their property from coming to their assignee in bankruptcy,
1005 or to prevent the same or any part thereof from being distributed under the said act of Congress, or to defeat the object of or to impair, hinder, or impede or delay the operation or effect of the provisions of the said act of Congress.

And these deponents further say that the said assignment was not made in contemplation of availing themselves of the provisions of the said act of Congress, or with a view to prevent their property from coming to their assignee in bankruptcy, or to prevent the same being distributed under said act, or to defeat the object of, or in any way to impair, hinder, impede, or delay the operation and effect of, or to evade any of the provisions of the said act, and that the said assignment was made in the usual and ordinary mode and manner pointed out by the laws of the State of New York, when persons become insolvent, to secure a just and equitable distribution of their property among their creditors.

And these deponents further say that, in or about the month of February, in the year 1868, being unable to make a settlement with their creditors, and being advised that it might be adjudged that the provisions of said act relative to voluntary applications under the same might cease to have effect, unless by the consent of creditors, or the payment of fifty cents on the dollar of the indebtedness of the bankrupt,

from and after the second day of March, 1868, they, for the first time, thought of making an application under said act, and on the twenty-seventh day of February, in the year 1868, they filed their petition to be adjudged bankrupts as copartners and as individuals, and on the twenty-seventh day of February, in the year 1868, were adjudged bankrupts.

JAMES K. PLACE.
JAMES D. SPARKMAN.

Subscribed and sworn before me this 20th day of June, 1868.
J. BUCHANAN HENRY,
U. S. Com'r, S. D. N. Y.

Sworn to by J. D. Sparkman, before me, June 20, 1868.
HENRY DOWNE,
Notary Public, N. Y. City and Co.

1006 The plaintiff submitted written points, but no oral argument was had, and thereupon Judge Nelson, after considering said papers, viz, bill, affidavits, and points, made the following order:

At a term of the circuit court of the United States in and for the southern district of New York, in the second *court*, held at the court-room of the said court in the city of New York, Monday, the 22d day of June, in the year of our Lord one thousand eight hundred and sixty-eight.

Present, the honorable Samuel Nelson, circuit judge.

JOHN SEDGWICK, AS ASSIGNEE IN BANKRUPTCY, etc.,
vs.
JAMES K. PLACE, JAMES D. SPARKMAN, LEWIS W. BURRITT, j'r, and THOMAS T. SHEFFIELD.

An injunction having been heretofore granted in this action restraining and enjoining the defendants, Lewis W. Burritt, j'r, and Thomas T. Sheffield, their counsellors, attorneys, solicitors, servants, and agents from disposing of, parting with, pledging, selling, encumbering, or in anywise interfering with any of the property, assets, credits, and effects of every description which were formerly owned, belonged to, or possessed by the defendants, James K. Place and James D. Sparkman, jointly and severally, and particularly the property, assets, credits, and effects specified and described or embraced in a certain instrument in writing, bearing date at the city of New York on the twenty-
1007 third day of December, 1867, purporting to have been made and delivered by the said James K. Place and James D. Sparkman to the said Lewis W. Burritt, j'r, and Thomas T. Sheffield, and to assign, transfer, and set over to the said Lewis W. Burritt, j'r, and Thomas T. Sheffield all the property and effects of the said James K. Place and James D. Sparkman; and a motion having been made on the part of the complainant for a receiver in this action of the said property and effects, the parting with, pledging, selling, encumbering, or interfering with which was enjoined by said injunction on an order to show cause heretofore made in this action:

On reading the bill of complaint, duly verified, and on reading and filing the affidavits of the defendants, and each of them, and after hearing F. N. Bangs, esq., of counsel for the complainant, and L. R. Marsh,

esq., of counsel for the defendants, and on motion of Marsh, Coe & Wallis, solicitors for the defendants, it is ordered—

That said motion for a receiver be, and the same is hereby, denied, and that said injunction heretofore granted and issued in this action be, and the same is hereby, dissolved.

(A copy.)

KENNETH G. WHITE, *Clerk.*

Afterwards, and before any answers were put in to said bill, the following amendments thereto were filed, namely:

U. S. circuit court.

Amendments to bill of complaint.

JOHN SEDGWICK, AS ASSIGNEE, &C., }
vs. }
JAMES K. PLACE, ET AL. }

FIRST AMENDMENT.—After the words "James D. Sparkman,"
1008 in folio 6, (12,) insert the words "for five months prior to the filing of their said petition, had been insolvent, and in contemplation of insolvency or bankruptcy, and there were on December 23rd, 1867, pending against the said James K. Place and James D. Sparkman, in the courts of the State of New York, various actions for the recovery of debts due by the said Place & Sparkman, the particulars of which actions are unknown to your orator; and thereupon the said James K. Place and James D. Sparkman formed the design of removing their property and estate so as to avoid its being attached, taken, or sequestered in any legal process which might issue in any of such actions; and, further, formed the design to have their property disposed of by, and placed in the hands of, agents or assignees of their own choice and designation, not acting under the authority and in pursuance of the said act of Congress, so that the property and estate purporting to be affected thereby should not be disposed of under the said act.

"And, further, formed the design that in case any assignee should be, at any time within six months thereafter, appointed of their estate, pursuant to any section of said act of Congress, their property should not come to such assignee, and should not be distributed under the said act.

"And, further, formed the design to bring their creditors into a compromise and abatement of their respective demands, and to postpone and delay the distribution of their property among their creditors, and the application of their property to the payment of their debts until their creditors should consent to such compromise and abatement.

"And thereupon the said James K. Place and James D. Sparkman," and strike out the words "had in fact for more than four (4) months prior to the filing of said petition been in fact insolvent, and that."

SECOND AMENDMENT.—In folio 7, (12 above,) after the words "insolvency," insert the words "and in pursuance of the designs aforesaid."

1009 THIRD AMENDMENT.—In folio 12, (16 above,) after "said debtors," insert the words "and the property purporting to be conveyed thereby was conveyed by the said bankrupts in fraud of their creditors, and the said assignment, transfer, and conveyance was made with intent to hinder, delay, and defraud the creditors of the said bankrupts."

FOURTH AMENDMENT.—In folio 17, (22 above,) after the words "Place and Sparkman," insert as follows:

"(4.) Whether or not, at the time of executing and delivering the said assignment, the said Lewis W. Burritt, j'r, and Thomas T. Sheffield did not have reasonable cause to believe that the said James K. Place and James D. Sparkman were insolvent?

"(5.) Whether or not, on the twenty-third (23d) day of December, eighteen hundred and sixty-seven, (1867,) there were not pending in the courts of the State of New York, various actions against the said James K. Place and James D. Sparkman for the recovery of debts due by the said Place and Sparkman, and what were the particulars of such actions as to the parties thereto, the amounts sought to be recovered therein, and the nature of the demands set up in such actions, respectively?

"(6.) Whether or not the said James K. Place and James D. Sparkman had not, prior to the making of the said assignment, formed the design of removing their property and estate so as to avoid its being attached, taken, or sequestered in any action or legal proceeding then pending against them, and whether the said assignment was not executed and delivered in pursuance of the said intent?

"(7.) Whether or not the said James K. Place and James D. Sparkman had not, prior to the twenty-third (23d) day of December, one thousand eight hundred and sixty-seven, (1867,) formed the design to have their property disposed of by, and placed in the hands of,
1010 agents and assignees of their own choice, not acting under the authority or in pursuance of the said act of Congress, and so that the property and estate purporting to be affected by the said assignment should not be disposed of under the said act, and whether the said assignment was not executed and delivered in pursuance of such intent?

"(8.) Whether or not the said James K. Place and James D. Sparkman had not, prior to the said twenty-third day of December, one thousand eight hundred and sixty-seven, (1867,) formed the design of bringing their creditors into a compromise and abatement of the respective demands of such creditors, and to postpone and delay the distribution of their property among their creditors, and the application of their property to the payment of their debts until their creditors should consent to such compromise and abatement, and whether the said assignment was not executed and delivered in furtherance and pursuance of such design?"

The defendants then answered said bill and amendments, and issue was joined thereon, and testimony was taken by the parties plaintiff and defendants to maintain the issues on their parts, respectively, but said action was discontinued by an order made June 21, 1869.

C. W. BANGS,
Sol'r for Pl'ff.
MARSH & WALLIS,
Sol'rs for Burritt and Sheffield.

1011

1012 United States circuit court, southern district of New York.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C., appellant,
vs.
JOHN Q. PREBLE, THE UNITED STATES TRUST Company of New York, as executor, &c., and James D. Sparkman, appellees.

The clerk will please enter my appearance for the United States Trust

Company of New York, as executor, &c., appellee, vs. John Sedgwick, as special receiver, &c., appellant.

Dated March 19th, 1874.

Yours, etc.,

EDGAR S. VAN WINKLE.

To KENNETH G. WHITE,
Clerk U. S. Circuit Court, S. D. N. Y.

1013 (Endorsed:) U. S. circuit court, southern district N. Y. John Sedgwick, as special receiver, &c., appellant, vs. John Q. Preble, The U. S. Trust Company of N. Y., as executor, &c., and James D. Sparkman, appellees. Notice of appearance. Edgar S. Van Winkle, sol. for U. S. Trust Co. Filed March 19, 1874. Kenneth G. White, clerk U. S. circuit c't.

1014 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, George F. Betts, clerk of the district court of the United States of America for the southern district of New York, do hereby certify that the writings annexed to this certificate are true copies of their respective originals on file and remaining of record in my office.

In testimony whereof I have caused the seal of the said court to be hereunto affixed at the city of New York, in the southern district of New York, this eighteenth day of March, in the year of our Lord one thousand eight hundred and seventy-four, and of the Independence of the said United States the ninety-eighth.

[SEAL.] GEO. F. BETTS, *Clerk.*

1015 United States district court, southern district of New York.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C.,
vs.
JAMES T. SPARKMAN, IN HIS OWN RIGHT, INdividually, and also as executor of the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, James D. Sparkman, and John Q. Preble.

To the district court of the United States for the southern district of New York:

The petition of the United States Trust Company of New York respectfully shows:

That your petitioner is a body politic and corporate, duly created and existing under and by virtue of the laws of the State of New York and authorized by law to execute trusts created by last will and testament.

That by a judgment duly made and entered on the 29th day of January, 1874, in an action then pending in the supreme court of the
1016 State of New York for Kings County, between John Sedgwick, as assignee in bankruptcy of James K. Place and James D. Sparkman, as plaintiff, against James T. Sparkman, James D. Sparkman, Charles P. Sparkman, Dora Sparkman, and Mary Young, wife of John L. Young, as defendants, your petitioner was appointed to be the executor of and trustee under the last will and testament of Mary Ann

Sparkman, late of the city and county of New York, in place and stead of the said James T. Sparkman, and in and by the said judgment it was further ordered, adjudged, and determined that the said James T. Sparkman should transfer to the United States Trust Company all the assets and property in his possession, or under his control, and all his right, title, and interest in, to, and upon any assets or property which constituted part of the estate of the said testatrix, to the end that the same might be administered by the said United States Trust Company according to law, and that all lawful debts and obligations of the said testatrix and of the said James T. Sparkman, as such executor,
1017 might be paid out of the same, and the balance remaining paid out and distributed according to the directions contained in said will.

That thereafter and on the seventeenth day of January, 1874, a decree in the above-entitled cause was made in favor of the defendants herein, dismissing the bill of complaint.

That thereafter and before the said judgment of the supreme court was made and entered as aforesaid, the plaintiff in the said cause appealed to the circuit court of the United States for the southern district of New York, in the second circuit, from the said judgment and decree rendered and entered herein as aforesaid, the notice of which said appeal was dated January 22nd, 1874.

Therefore your petitioner prays that it, as executor of and trustee under the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, may be substituted as defendant and appellee in this cause in place and stead of said James T. Sparkman, as executor of said last will and testament, with liberty and power to
1018 defend against said appeal, and that a rule be made and entered accordingly, and that your petitioner have such other and further relief as may be just and equitable.

And your petitioner will ever pray, etc.

Dated March ninth, (9th,) 1874.

UNITED STATES TRUST COMPANY OF NEW YORK,
JOHN A. STEWART, *Pres't, Petitioner.*
EDGAR S. VAN WINKLE,
Attorney for Petitioner, 48 Wall Street, N. Y.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

John A. Stewart, being duly sworn, deposes and says that he is the president of the United States Trust Company of New York, the petitioner named in the foregoing petition, and that the said petition is true to his own knowledge, except as to those matters therein stated on information, and as to those matters he believes it to be true.

JOHN A. STEWART.

Sworn to before me this ninth day of March, 1874.

[NOTARY PUBLIC SEAL.] W. H. W. STEWART,
Notary Public, N. Y. Co.

1019 We consent that a rule or order be made and entered as prayed for in the above petition without notice to us. Dated March 9, 1874.

C. W. BANGS,
Pl'ff's Att'y.
J. N. PLATT,
Def'ts' Att'y.

(Endorsed:) U. S. district court, John Sedgwick, as special receiver, against James T. Sparkman and others. Petition. Edgar S. Van Winkle, solicitor for petitioner, 48 Wall st.

1020 At a stated term of the district court of the United States for the southern district of New York, held at the court-rooms thereof, in the city of New York, on the 12th day of March, 1874.

Present: Hon. Samuel Blatchford, district judge.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C.,
vs.
JAMES T. SPARKMAN, IN HIS OWN RIGHT INDIVIDUALLY, and also as executor of the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, et al.

On reading and filing the petition of the United States Trust Company of New York, dated the 9th day of March, 1874, and duly verified, and the consent duly signed by the solicitor for the plaintiff at the foot of said petition, and the consent of J. N. Platt, signing himself def't's att'y, on motion of Edgar S. Van Winkle, esq., the solicitor for the said petitioner—

1021 It is ordered that the United States Trust Company of New York, as executor of and trustee under the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, substituted as such in place and stead of James T. Sparkman, removed, be, and it hereby is, substituted as defendant in this cause, in place and stead of said James T. Sparkman, as executor of the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, with liberty and power to defend against the appeal in this cause taken by the plaintiff to the circuit court of the United States for the southern district of New York, in the second circuit, from the judgment and decree rendered herein, on the 17th day of January, 1874.

(Signed) SAM'L BLATCHFORD.

(Indorsed:) U. S. district court for southern district of New
1022 York. John Sedgwick, as special receiver, &c., vs. James T. Sparkman, in his own right as an individual, and also as executor of the last will and testament of Mary Ann Sparkman et al. Order to substitute the U. S. Trust Company of N. Y. Edgar S. Van Winkle, sol'r for the petitioner, 48 Wall st., N. Y. Filed March 12, 1874.

We consent to an entry of the within order.
Dated March 9th, 1874.

C. W. BANGS,
Pff's Sol'r.

1023 (Endorsed:) U. S. circuit court, southern district of New York. John Sedgwick, as special receiver, &c., appellant, vs. John Q. Preble et al. and the United States Trust Company of New York. Impleaded. Appellees. Certified copy. Petition and order substituting the United States Trust Company in the place and stead of James T. Sparkman, as executor, &c. C. W. Bangs, sol'r for app'l'nt. Filed March 18, 1874.

1024 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York,

on Wednesday, the 13th day of May, in the year of our Lord one thousand eight hundred and seventy-four.

Present, the honorable Ward Hunt, associate justice of the Supreme Court of the Un't' Stat's.

JOHN SEDGWICK, AS SPECIAL RECEIVER, APpellant,
vs.
JOHN Q. PREBLE ET AL., APPELLEES.

This cause coming on to be heard on the appeal from the U. S. district court—

M'r F. N. Bangs is heard on the part of plaintiff, appellant.

M'r Edgar S. Van Winkle is heard on the part of the United States Trust Company of New York.

C. A. V.

1025 JOHN SEDGWICK, AS ASSIGNEE IN BANKruptcy of James K. Place and James D. Sparkman,
vs.
JAMES K. PLACE AND OTHERS.
In equity.

1026 Francis N. Bangs for the plaintiff.

1027 Edgar S. Van Winkle for the executors of M'r's Sparkman.

HUNT, J.:

The plaintiff, as the assignee in bankruptcy of J. K. Place & Co., files his bill to set aside as void various assignments made by the bankrupts. Many questions were presented to the district court for its decision, which are now brought before this court upon appeal Although arising out of transactions with one or more of the firm of J. K. Place & Co., and although, in some particulars, dependent upon the same evidence, the questions are distinct, and must be stated and passed upon separately. I will give them, in order, such consideration as may seem necessary.

For many years prior to December 1st, 1865, a large mercantile business had been carried on, in the city of New York, by James K. Place and Ephraim B. Place, as general partners, and James D. Sparkman, as special partner, under the style of J. K. & E. B. Place. On that day the firm was dissolved and a new firm was formed, under the name of J. K. Place & Co., consisting of James K. Place and James D. Sparkman only, both being general partners. This firm continued in business until March 19th, 1867, when it failed.

The title to certain property on the Fifth avenue was acquired by James K. Place in September, 1865, by the delivery to him, on that date, of a permanent lease of the same. This lease was assigned by M'r Place to A. H. Wallis, for the purpose of being transferred by him to M'r's Place, the wife of the assignor, and the same was so transferred by Wallis. The transfer to Wallis, and that by him to M'r's Place, bear date of December 1st, 1865. They were acknowledged April 18th, 1866, and recorded on that day; and it is insisted by the assignee in bankruptcy that they were not, in fact, executed and delivered until some time in the month of April, 1866.

1028 I. The first question argued is this: Was the transfer of the Fifth-avenue leasehold lots by James K. Place to Susan A. Place, his wife, made through the agency of Alexander H. Wallis, fraudulent and void?

While this property was held by M'r's Susan A. Place, mortgages upon it were executed by her, one to Joseph S. Barker, to wit, in May,

1867, and one to Cross, now held by Phipps & Co., in January, 1868. The counsel for the assignee concedes that if the title of M'r's Place is good, that of her mortgagees is good also, and hence, he says, her title is the first object of attack. If her title is invalid, it is insisted that the mortgages are also invalid.

The general propositions of the assignee as to the Fifth-avenue property are these: (1.) That it was partnership property, and has been wrongfully withheld from the payment of the partnership debts of J. K. & E. B. Place and of J. K. Place & Co. (2.) That, if it was the separate property of James K. Place, it was conveyed by him to his wife in fraud of creditors and of his partner.

(1.) I am not able to concur with the assignee in his claim that the property in question was the property of the firm of J. K. & E. B. Place, or of the firm of J. K. Place & Co. The purchase was made by M'r Place individually, for his own account, and not on account of either of the firms named. Neither of the partners was ever consulted about the purchase, so far as the evidence shows, nor did they ever claim any interest in the estate. The title was taken in the name of M'r Place personally, and was by him personally transferred to Mr. Wallis. I see nothing in the book-keeping of the transaction which contradicts this conclusion. The accounts respecting the property were carried on the books of the firm for the convenience of M'r Place, as were all his other private affairs, but the entries, taken together, show it to have been a private transaction. It was so deemed by the partners, as well as by the subordinates making the entries, from the beginning.

(2.) Was the conveyance by James K. Place to his wife, of the
1029 Fifth-avenue property, fraudulent, within the purview of the bankrupt act?

It is impossible, in rendering a decision upon a case containing so great a volume of testimony, received from so many witnesses, and based upon statements contradictory, involved, and confused, to make an argument upon the facts. That duty has been performed by the counsel for the respective parties, with great labor and great skill. I shall content myself generally with a statement of facts, as I find them to be, without attempting to sustain the conclusion of fact by argument or reference.

As already stated, the lease of the Fifth-avenue property was assigned to M'r Place in September, 1865. On the 19th of that month he paid to J. A. Livingston $4,500, on the purchase of the lease, having previously paid the sum of $500. Contracts were at once made for building a house on this property, and making other improvements, for which large amounts were paid by M'r Place from time to time. The amounts thus paid for the improvement of the property, and for the furniture of the house, were made at the rate of from $7,000 to $8,000 a month, from September, 1865, to September, 1866. The books of J. K. & E. B. Place show that there was paid on this account as follows: Up to November 30th, 1865, $10,028.35; up to December 31st, 1865, $11,774.44; up to December 31st, 1866, $61,627.00; up to April 30th, 1867, $82,547.08; and up to November 25th, 1867, $95,533.04. Thus there was paid, during 1865, $11,774 44; during 1866, $49,852.56; in 1867, prior to May 1st, $20,920.08; and between May 1st and November 25th, $12,985.96. It is stated, in the opinion of the court below, and quoted in M'r Hayward's brief, that, "by the 1st of December, 1865, $25,000 had been expended on account of the property, although only $10,028.35 had been debited to the account."

The question is not, simply, what was the condition of M'r Place in September, 1865, when he made the payments to M'r Livingston for the lot, but what was his condition when he made the various pay-
1030 ments, during the residue of the term, for the much larger expenditures for the building and furniture?

The law upon this question of fraud has been elaborately argued by the respective counsel, and numerous authorities are cited in the opinion of the court below. The principles to be applied here are not difficult to discover. There is no act or fact in the case, that I discover, which stamps the transaction as necessarily and absolutely fraudulent. Fraud or no fraud is generally a question of fact, to be determined by all the circumstances of the case. Under all the facts as developed by the evidence on this trial, is there a reasonable presumption that, in buying the lot on Fifth avenue, or in making the subsequent payments, M'r Place intended to defraud his creditors, existing or future? Were his pecuniary affairs in such a state that he had good reason to believe, and did believe, that he could present, as a gift, to his wife, this amount of property, and still be able to pay the debts due and to become due in the business he was then engaged in and that which he contemplated pursuing? Had he good reason so to believe, and did he so believe, during the entire period of the time in which he was making the payments? On the other hand, was he weak and unsteady in his pecuniary affairs, and was this transaction an anchor to windward, by which advantage to himself and family might be secured, in case the storm was too heavy for him to bear? Was this his motive and intent when he made any of these payments? (Savage v. Murphy, 34 N. Y., 508; Case v. Phelps, 39 id., 164; Spirett v. Willows, 3 De Gex, Jones & Smith, 293, and 11 Jurist, N. S., part 1, 70; Freeman v. Pope, Law Rep., 9 Eq. Cas., 206; Carpenter v. Roe, 10 N. Y., 227; Babcock v. Eckler, 24 id., 623.)

The conveyance to M'r's Place was a single transaction in form; but, in truth, every payment was a new and separate conveyance of property to her and for her benefit. When M'r Wallis assigned the lease to her, the property became hers, and the expenditures upon it but gave greater value to her estate. This was known to M'r Place, and if any part of his proceedings falls within the censure of the law, we are justi-
1031 fied in considering that as reflecting upon all that preceded it. If he was not honest in turning the property of his creditors into the lap of his wife in the summer of 1866, we shall be justified in characterizing in like manner what took place in the autumn of 1865. The subsequent expenditures were, in themselves, distinct and separate acts, but in pursuance of a plan formed when the first step was taken. The whole is to be taken as one transaction, and to be judged of by what was contemplated at the outset, what was afterwards contemplated, and what did occur at various times, in carrying it to perfection.

We are to consider, also, the nature of the business in which M'r Place was engaged, and in which he expected to be engaged, and the society and style in which he lived and expected to live, and its necessary expenses. These all enter into the question we are to determine. A family provision which would still leave the donor in the ownership of an unencumbered estate of $100,000, would, in some parts of the country and under some circumstances, be deemed to be, and be, in fact, a reasonable transaction. It would be supposed that an ample provision against all contingencies had been retained by the donor. This, however, might be differently decided, where the business of the settlor was extensive and hazardous, or where the family residence should cost $100,000, and where $20,000 or $30,000 annually would be required, by the usages of society, to maintain the establishment. The sum named would go but a little ways, either to support the fashion and luxury of a large city, or to meet the fluctuations and necessities of a business in which the existence of millions of debt gave no anxiety to the debtor. The economy of country life is not to furnish a standard for the measure of city life,

nor is the enlarged business or private establishment of a city merchant to stand as it would in the simplicity of the country.

The time when the transfer to his wife was made by M'r Place, with reference to the old and to the new business in which he was concerned, and the practical effect of the conveyance, are also to be considered.

1032 In examining the condition of M'r Place's affairs, a convenient starting point is found in the dissolution of the old firm of J. K. & E. B. Place and the formation of the new firm of J. K. Place & Co. This occurred on the 1st of December, 1865. A statement of affairs was then made for the purpose of a settlement, and it is sufficiently near to the time of the purchase of the Fifth-avenue property to furnish a standard of reasonable accuracy.

It is difficult to say, upon the proofs, whether the transfer from Wallis to M'r's Place was actually made in December, 1865, or not until April, 1866. The plaintiff's proofs on that subject consist in the fact that the transfer to Wallis, and from him to M'r's Place, were not recorded until the month of April, 1866, and in the argument, that a careful lawyer like M'r Wallis would not be justified in retaining such papers unrecorded, and would not be likely to do so, and in the evidence of the fact that, in the bill for professional services rendered by M'r Wallis to M'r Place up to January 1st, 1866, no charge was found for examining the title, or drawing the transfers, respecting this property, while the charges on this subject were contained in a bill presented subsequently to April, 1866. The recollection and statements of M'r Place, as found in his testimony, are not as positive and distinct as might be wished. The testimony of M'r Wallis on the point is not taken, and no reason appears in the case why either party should be unwilling to call him. The difference of payments between December 1st, 1865, and January 1st, 1866, appears, by the books, to be $1,746.09. The amount paid between January 1st, 1866, and April 18th of that year, I am not able to discover. I cannot perceive that any important result would be attained by antedating the transfer by M'r Place to his wife, from April, 1866, to December, 1865. The burden of proof on the point rests upon the party alleging the fraud or the error. I am not prepared to say that this has been proved, and I shall consider the transfer as having been made when it bears date, viz, December, 1865.

1033 The theory of M'r Place's counsel is this—that, on the dissolution of the firm of J. K. & E. B. Place, December 1st, 1865, the books of that concern showed him to be worth $227,000; that the merchandise of the firm was sold to their successors for the sum of $1,474,000; that their accounts were transferred to the new firm, to collect and pay the debts of the old firm, the new firm undertaking to liquidate, as it is technically expressed; that, within 60 or 90 days, 98 per cent. of these debts were collected, and enough to pay all the debts of the firm, except $30,000 or $40,000 due to Anderson & Ten Broeck, which debts were afterwards paid by E. B. Place; that the share coming to E. B. Place was about $300,000, and that to Sparkman $262,000; that James K. Place's interest in the spice concern of Place & Turlay was about $20,000; that obligations for building the Fifth-avenue house, to $50,000 or $60,000, had been incurred by him; and that, after the payment of all his debts, James K. Place had an estate of the value of from $150,000 to $200,000. This is M'r Place's own estimate, as given in his testimony. It appears, also, from the statements of M'r Place, that the actual expense of the Fifth-avenue building, and his liabilities arising out of it, were much larger than he had anticipated.

The failure of M'r Place and his new firm, in November, 1867, is explained, first, by losses in the sugar-refining business, amounting to $250,000; a loss of $30,000 of capital in the cork business; a loss by loans to the same concern of $200,000; and a loss in the value of goods, caused by fluctuation in the gold market, the last item amounting to $175,000 in the first thirteen months of the existence of the firm of J. K. Place & Co.

This theory is attacked by the assignee's counsel in various modes. It is insisted that the "trial-balance" of November 30th, 1865, shows an indebtedness of the firm of $3,842,000, and that the bills payable alone amounted to $1,246,777. The nominal assets, it is said, amounted to $4,500,000, including the Turlay & Place investment at $60,000, and the Fifth-avenue property at $10,000. The merchandise was valued, it is said, by adding to the currency valuation the premium of 1034 48 per cent. for gold, while gold fell to 33 by the end of the year 1866. The brief and the argument of the assignee's counsel in relation to the details of the business of the firm, its situation in December, 1865, and its proceedings afterwards are exhaustive. It is not necessary to follow them. The result of the business was, that, at the end of the first third of the year 1866, the condition of the firm was greatly altered for the worse, 1st, by their loss in gold; 2d, by their unsecured endorsements to a large amount for Place & Turlay; and 3d, by the purchase of the interest of E. B. Place in the Turlay concern; and, at the expiration of the year, the firm of J. K. Place & Co. was practically insolvent. It kept up its business by loans and renewals, living on the strength of its former good character. There was no technical failure, but it is manifest that the substance was being eaten out day by day, and that little more than the shell then remained. The struggle was maintained until November, 1867, when it was abandoned. During the whole of this year the contest was maintained, doubtless with the hope and expectation that the firm could overcome the difficulties surrounding it, maintain its credit, and retrieve its affairs. The burden, however, was too great, and the absolute open failure took place on the 19th of November, 1867.

Two concurrent sets of facts are strikingly significant. They run side by side from September, 1865, to November, 1867. The first set arises out of the purchase in September, 1865, of the Fifth-avenue lots, and the payment for the same, in that month, of $5,000 to M'r Livingston. Up to December 31st, 1865, M'r Place paid $11,774.44 on account of this purchase and its improvement. By December 31st, 1866, the sum of $61,627 had been thus paid. On the 30th of April, 1867, $82,547.08, and on the 25th of November, in the same year, $95,533.04 had been paid on the same account. These sums were all paid by James K. Place. They were voluntary gifts made by him to his wife, at the dates mentioned, for the purchase and equipment of a house to be occupied by his wife and family, and by himself as a member 1035 of that family. The second set of facts arises out of the failing condition of the firm at the times these gifts were made. During the year 1866, the firm lost $175,000 in the single item of gold. During the same year the difficulty with Turlay occurred, by which the capital in that firm was lost, and $200,000 was added to their burdens by endorsements for that firm, which Place's firm knew it would be bound to protect, and by the assumption of E. B. Place's interest of $30,000 in the same establishment. In the face of these facts, M'r Place made to his wife the gifts mentioned, to the amount of $50,000 during the year

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1866. Assuming that he was worth the sum of $175,000 in December, 1865, as he estimates himself to have been, (he gives in his deposition as from $150,000 to $200,000,) invested in the manner and subject to the hazards specified, the occurrence of these losses must have admonished him that his situation was a precarious one. With this moderate fortune, thus hourly wasting away, subject to the expenses of a residence in the city of New York, these gifts to his wife cannot be sustained. They must be regarded as gifts of the property of his creditors, made for his own benefit or for that of his family. No principle of law can sustain them, nor do any of the cases to which my attention has been called justify them.

I am of the opinion and do decide, that, within the provisions of the bankrupt act, the gift, by James K. Place to his wife, of the Fifth-avenue lease-lot, and the payments thereon made by him are illegal and void, and that the same must be set aside, and the value thereof applied to the benefit of his creditors, through the assignee in bankruptcy. In this respect the decree below is erroneous, and must be reversed.

1036 VII. As to the conveyance of the 42d-street property to M'r's Sparkman. By instruments bearing date about December, 1865, James D. Sparkman conveyed to his wife, Mary A., certain premises situated on 42d street, in the city of New York. The property con-
1037 stituted the family residence, and, with the furniture, was valued at $60,000. M'r Sparkman continued to occupy the premises as a residence until October, 1868. In October, 1868, the executor sold this property to M'r Preble for $60,000, in part payment for which a mortgage of $40,000 was given, which remains in the hands of the executor. This settlement on the wife, together with $40,000 of Government bonds, at the same time, was made because Sparkman was about to embark in business as a general partner, and was well advanced in years, and he desired to secure to her the sum of $100,000, by the conveyance of the 42d-street property and the furniture, carriage, and horses used by him, and $40,000 in Government bonds.

It is alleged and conceded, in the briefs of the counsel respectively on this question, that the firm of J. K. & E. B. Place owed $3,480,000. Their assets on paper were $4,500,000. They were succeeded by the firm of J. K. Place & Co., of which firm M'r Sparkman was a general partner. It is claimed, on the part of M'r Sparkman, that he was worth $200,000, independently of his interest in the firm. The statements heretofore made respecting the affairs of James K. Place bear upon the present point, and the principles of law there stated are also applicable to it. They need not be recapitulated. Each member of the firm took the same occasion to make a settlement upon his wife, and apparently governed by the same principles. At the time of the dissolution of the firm of J. K. & E. B. Place, Sparkman was indebted individually in about the amount of $20,000. The debts and assets of the new firm have been stated. The career of the new firm, of which Sparkman was a general partner, until its final failure in November, 1867, has also been stated. The other concerns in which he was interested, and which were, in fact, bound up in and dependent upon J. K. Place & Co., soon went down together. The firms of Sparkman, Truslow & Co., and of Sparkman, Place & King, no longer existed. His interest in the Manufacturers' Bank stock was diminished one-half by these occurrences. The rest of his property was entirely swept away, and he was
1038 left a bankrupt. The conveyance in question to his wife, and the alleged transfer of the Government bonds, were made to his wife, while she was quite ill; and her will was immediately made, giv-

ing the benefit of the whole property to M'r Sparkman during his life, and after his death to his children, who were not her children, and she died in June, 1866. The evidence shows that M'r Sparkman occupied the house and furniture after the conveyance to his wife as before. It fails to show that the bonds were delivered to M'r's Sparkman, or to any one in her behalf, before her death. It appears that they were kept in the safe of her husband's firm; that they were used by the firm as their own property; that they were repeatedly pledged by them for loans for their firm; and that no actual possession was taken of them by M'r's Sparkman's executor until the failure of the firm, in November, 1867. It is evident that the intent of M'r Sparkman was to secure himself and family against the fluctuations of the large enterprises in which he was engaged and was about to engage; he owed very large sums; he expected to owe still larger sums, as he then became a general partner; he was about to embark in a new business; he was advanced in years; he intended to appropriate a portion of his property to provide a refuge for himself and family in the event of an unfortunate result to his enterprises; he incurs a new indebtedness of several millions of dollars by his general partnership; he unites in a sugar-refining speculation; he carries on a boot and shoe business; he carries on a large and embarrassed cork factory, and he becomes a partner in business with Taylor and Young; he was in very deep water; his enterprises, in fact, were unsound, and all of them came to disastrous ends. At the moment of embarking in the most hazardous of these enterprises he sets aside $100,000 for his wife. The wife then has a fatal sickness upon her, from which she soon dies. She makes a will giving to him for life the use of the property, and the remainder to his children after his death. The property conveyed is occupied by him as before. The bonds forming a part of the gift are used by the
1039 donor's firm as their own, are repeatedly hypothecated for their benefit, and are not claimed by, or delivered to, the executor until the failure of the firm, in November, 1867, when the firm borrows money to take them out of pledge and deliver them to the executor. These acts and doings of the donor and those representing him furnish pregnant evidence of the intent of the donor. (Allen v. Massey, 17 Wall., 351.) Unless the authority of Case v. Phelps, Savage v. Murphy, Carpenter v. Roe, and Robinson v. Stewart (10 N. Y., 190) be denied, the transaction must in all its parts be adjudged to be fraudulent. I have no difficulty in concurring with the court below in vacating these transfers to M'r's Sparkman by her husband, and declaring the title to be in the plaintiff, and that M'r's Sparkman's executors must account to the assignee. The decree on this point is affirmed. (Miller v. O'Brien, 9 Blatchf. C. C. R., 270; Case v. Phelps, 39 N. Y., 164; Carpenter v. Roe, 10 id., 227; Savage v. Murphy, 34 id., 508; Robinson v. Stewart, 10 id., 190; Parrish v. Murphree, 13 How., 92; and cases supra.

As the court of appeals of the State of New York now holds, it was error to fix the rule of damages at the highest market price of the bonds up to the time of the trial. (Baker v. Drake, 53 N. Y., 211.) It should have been their value when sold. This must be the principle to govern the rule of damages, and to this extent the decree is modified.

WARD HUNT.

(Endorsed:) U. S. circuit court. Sedgwick, assignee, vs. Place, Barker, & others. Opinion of M'r Justice Hunt. Filed June 16, 1874.

1040 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York, on

Wednesday, the fifteenth day of July, in the year of our Lord one thousand eight hundred and seventy-four.

Present, the honorable Ward Hunt, associate justice Supreme Court U. S.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C., } In b'k'ptcy. On appeal from U. S. dis't court.
vs.
JOHN Q. PREBLE ET AL.

The appeal taken by the plaintiff in this cause from the decree therein made by the district court of the United States for the southern district of New York, bearing date January seventeenth, (17th,) 1874, having came on to be heard, and having been argued by counsel for the respective parties, and due deliberation thereupon had, it is now ordered, adjudged, and decreed by the court as follows:

First. That the said decree be, and the same is hereby, in all things, reversed.

Second. That the plaintiff at the time of the commencement of this suit was, and he now is, vested by operation of law with
1041 the title to all and singular the proceeds of the sale mentioned in the bill of complaint in this cause, made by James T. Sparkman, as executor of the last will and testament of Mary Ann Sparkman, deceased, to the defendant, John Q. Preble, of the leasehold property and premises mentioned and described in the bill of complaint in this cause.

Third. That the receiver appointed in this cause by an order made therein the eighth day of February, 1870, and also the defendant The United States Trust Company, of New York, as executor, &c., of Mary Ann Sparkman, deceased, do, upon the coming in and confirmation of the master's report, under the fourth paragraph of this decree, transfer and deliver to the plaintiffs, under the directions of Kenneth G. White, one of the masters of this court, to whom it is hereby referred for that purpose, the bond and mortgage of the defendant John Q. Preble, mentioned and referred to as Exhibits 6 and 7 in the proofs in this cause, and also the uncollected promissory notes, demands, accounts, claims, and choses in action mentioned and referred to in said order of the eighth day of February, 1870, and all moneys due or to grow due thereon.

1042 Fourth. That it be, and it is hereby, referred to said Kenneth G. White, esq., to pass the accounts of the said receiver in this cause, so appointed as aforesaid by said order of the eighth day of February, 1870, and that on such accounting the said master do charge the said receiver with all sums of money received by it as such receiver, and interest thereon at the rate of four per cent. per annum, and credit it with all sums of money lawfully paid out by it as such receiver under any order of this court, or by consent of the parties, and interest thereon at the rate of four per cent. per annum, and with all other sums for which it is lawfully entitled to credit; and that the said master ascertain and report the balance of money in the hands of such receiver, or with which it is chargeable, and that upon the coming in and confirmation of the report of the said master the plaintiff will be entitled
1043 to an order and decree directing such receiver in this cause to pay such balance to the plaintiff.

Fifth. That the plaintiff is entitled, upon the coming in and confirmation of the said master's report, to recover of the defendant The United States Trust Company of New York, as executor of the last will and testament of the said Mary Ann Sparkman, the sum of fifteen thousand

seven hundred and eighty-eight dollars ($15,788) for interest on said bond and mortgage from the twenty-eighth (28) day of October, 1868, to the date of this decree; and the further sum of eighteen thousand one hundred and ninety-six dollars and sixty cents, ($18,196.60,) and interest thereon from the twenty-third (23) day of November, 1868, principal and interest, amounting, at the date of this decree, to twenty-five thousand two hundred and seventy-one dollars and sixty cents, ($25,271.60;) all such sums to be paid, levied, and collected out of the goods, chat-
1044 tels, and credits which were of the said Mary Ann Sparkman, deceased, but the defendant, the executor, &c., of Mary Ann Sparkman, deceased, will be entitled to have the balance so found in the hands of the receiver in this cause applied in reduction of the said recovery, and the balance of such recovery remaining after such application to be ascertained and reported by the said master.

(Signed) WARD HUNT,
Asso. Just. Sup. Ct U. S.

1045 U. S. circuit court.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C.,
vs.
JOHN Q. PREBLE ET AL.

To the honorable the circuit court of the United States for the southern district of New York:

I, Kenneth G. White, to whom, by the decree made in this cause on the sixteenth day of June, eighteen hundred and seventy-four, it was referred to pass the accounts of the United States Trust Company of New York, as receiver in this cause, respectfully report as follows:

I have been attended by counsel for the respective parties, and by counsel for the said receiver, and I hereto annex my minutes of the proceedings before me.

The said receiver filed an account which forms part of minutes, as hereto annexed. The plaintiff's counsel objected to the said receiver being allowed credit for the sum of nine hundred and eighty-one dol-
lars and forty-two cents, ($981.42,) for which the said receiver
1046 claimed credit in said account as for cash paid E. S. Van Winkle, esq., on the thirteenth day of July, 1874, and I have disallowed that item.

I find and report that the balance of cash in the hands of the said receiver in this cause, and with which it is chargeable, is thirteen thousand seven hundred and twenty-six dollars and eighty-eight cents, ($13,726,88,) and interest thereon, at the rate of four per cent. per annum, from the fifteenth day of July, 1874, to the date of this report, which principal and interest amount at the date of this report to thirteen thousand eight hundred and forty-eight dollars and eighty-nine cents, ($13,848.89.)

I further find and report that the said receiver has in its possession, as such receiver, a bond made by John Q. Preble to James T. Sparkman, executor, &c., dated October twenty-fifth, (25th,) 1868, to secure payment of the principal sum of forty thousand dollars, and interest at the rate of seven per cent. per annum, and a mortgage to secure such bond, which mortgage was recorded in the office of the register of the city and
county of New York, in liber 880 of mortgages, at page 276; and that
1047 said receiver has also in its possession an assignment of said bond

and mortgage made to it by James T. Sparkman, as executor of Mary A. Sparkman, deceased; and that said receiver has in its possession also a promissory note of Sparkman, Place & King, payable to the order of James T. Sparkman, executor, on demand, dated January first, (1st,) 1869, for eight thousand seven hundred and eight dollars and seventy cents, ($8,708.70,) and that the said receiver has a claim on open account against the corporation called "Sparkman, Place & King," for the sum of eleven thousand one hundred and twenty-nine and $\frac{77}{100}$ dollars, and that on said note and said open account said receiver has, pending this suit, received dividends for which it has duly accounted.

I have approved the form of a conveyance to be made by the receiver in this cause, to the plaintiff therein, which I hereto annex, marked "Exhibit 10."

I further certify and report that the amount which the plaintiff is entitled to recover of the defendant The United States Trust Company of New York, as executor of the last will and testament of the said
1048 Mary Ann Sparkman, at the date of this report, is twenty-seven thousand two hundred and ten dollars and seventy-one cents, ($27,210.71,) which sum I have arrived at by charging the said United States Trust Company, as directed by said decree, with the sum of fifteen thousand seven hundred and eighty-eight dollars, ($15,788,) and the further sum of twenty-five thousand two hundred and seventy-one dollars and sixty cents, ($25,271.60,) and by deducting from the aggregate of the said sums the aforesaid sum of thirteen thousand eight hundred and forty-eight dollars and eighty-nine cents, ($13,848.89,) being the balance remaining in the hands of the said receiver as aforesaid.

And I certify and report that, besides recovering the said sum of money, the plaintiff is entitled to a decree directing the receiver in this cause and the defendant The United States Trust Company, as executor of and trustee under the last will and testament of the said Mary Ann Sparkman, deceased, to transfer and deliver to the plaintiff the said bond and mortgage and promissory note, and to execute the assignment of which the form is hereto annexed.

1049 All of which is respectfully submitted.

Dated New York, October 5th, 1874.

KENNETH G. WHITE,
Master, &c.

1050 U. S. circuit court.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C.,
vs.
JOHN G. PREBLE ET AL.

Reference before Kenneth G. White, esq., master, under the decree of June 16th, 1874, at 41 Chambers street, N. Y., Sept. 30, 1874.

Present, M'r F. N. Bangs for plaintiff, M'r F. B. Candler for defendants, M'r W. A. W. Stewart for receiver.

The receiver files an account, marked "Exhibit No. 7."

Pl'ff objects to being charged with $981.42, as he is charged for cash paid E. S. Van Winkle under date of July 13, 1874.

Flamen B. Candler sworn for receivers:

I am the law-partner of Edgar S. Van Winkle, who is the solicitor & senior counsel for the United States Trust Co. The sum of $981.42 was in fact paid by the U. S. Trust Co. to M'r Van Winkle on July 13, 1874, or about that date, as a compensation to him for his services on the ap-

peal to this court in this suit & on appeal taken by the U. S. Trust Co., as executor of Mary Ann Sparkman, from a decree of the U. S. district court in another suit to this court.

1051 In my opinion the services of M'r Van Winkle were reasonably worth $981.42 in addition to all other sums received by him. The other suit was a suit in which John Sedgwick, assignee, had recovered from the estate of Mary Ann Sparkman about $59,788.02. The United States Trust Co. has received no property belonging to the estate of Mary Ann Sparkman, except the Preble bond & mortgage for $40,000, & a promissory note of Sparkman, Place & King for $8,708.77, & a claim on open account against Sparkman, Place & King, on which several claims it has collected the several sums mentioned in its account, Ex't 1. Under the advice of M'r Van Winkle, & under the suggestion of plaintiff's counsel, the Trust Co. has held that property as receiver, & not transferred it to the executor of Mary Ann Sparkman.

Ex't 2. Reads order of Jan. 29, 1870, entered Feb. 10, 1870; also judgment of supreme court of N. Y., made in Kings Co., about Jan. 29, 1874, in favor of John Sedgwick, assignee, as plaintiff, against

Ex't 3. James T. Sparkman, ex'r, & o'rs, by which the U. S. Trust Co. was substituted as executors, &c., of Mary Ann Sparkman, dec'd;

Ex't 4. also judgment in U. S. D. C. in favor of John Sedgwick, assignee,

1052 against James K. Place, of Jan. 17, 1874; also refers to judgment

Ex't 5. of U. S. D. C. in this case; also produces order made in this case

Ex't 6. Ex't 7. Oct. 31, 1870; also order of Oct. 23, 1871; also order of April 20, 1874.

Cross-examined:

James D. Sparkman was the principal beneficiary under M'r's Sparkman's will. Under her will he is entitled, during his life-time, to the income of her estate. He is still living. He is one of the defendants in this suit. He is largely interested in defeating the plaintiff. Under the order of Oct. 23, 1871, (Ex't 6,) the receiver made the payments to him appearing in its account at the times therein mentioned. The appeal in this cause was argued in this court May 13 & May 14. M'r Van Winkle, about June 19, 1874, after this cause was decided, sent to plaint-

Ex't 8. iff's counsel a bill, of which I produced a copy, (Ex't 8,) except that the original was dated in June, & was not receipted. Ex't 8 was rendered in July, & paid. The plaintiffs' counsel then wrote & sent to M'r Van Winkle letter which I now produce, (Ex't 9,) but omitted, in fact, to enclose the bill. The U. S. Trust Co. failed on both the appeals above referred to.

Redirect:

1053 Under the judg't (Ex't 3) the reference therein ordered has been proceeded with before the referee. James T. Sparkman, the removed executor, has filed his account, in which he claims to have accounted for all the estate of Mary Ann Sparkman. So far as I have been able to ascertain, there is no property with which to pay the two judgments recovered by M'r Sedgwick, one as assignee & one as rec'r, except what the rec'r in this suit has, & these judg'ts will absorb the whole estate, as far as I am now informed. M'r James D. Sparkman is a man of about 80; of no means. The U. S. Trust Co. had no knowledge of its appointment as substituted executor, or of the existence of the two judgments appealed from, until it was served with certified copies of those *their* judgments by the solicitor for John Sedgwick, & at that time the appeal in this suit had been taken by the plaintiff & was pending, & the time for taking an appeal in the other suit by M'r's Sparkman's estate was about expiring, & it was necessary that we

should act promptly, without stopping to take proceedings, to take this fund from the rec'r to the ex'r, or applying to the court for instruction in the premises. Mr. John N. Platt was solicitor for M'r's Spark-
1054 man's estate before the Trust Co. was substituted as executor.

The receiver now produces inventory showing the following property in his hands:

1. Bond made by John Q. Preble to James T. Sparkman, executor, &c., dated Oct. 25, 1868, for $40,000, & interest at 7 %, & mortgages to secure same, recorded in register's office, N. Y., liber 880 of mortg's, p. 276.

2. Assignment of that mortgage.

3. Promissory note of Sparkman, Place & King, to order of James T. Sparkman, executor, for $8,708.70, dated Jan. 1, 1869, payable on demand.

4. Also book-account against Sparkman, Place & King.

Plaintiff's counsel asks the master to report the balance in the receiver's hands at $981.42 & interest from July 15, 1874, & $12,745.46 & interest from Sept. 21, less the master's fees on this reference, which plaintiff asks to have the receiver pay.

The receiver's counsel asked to have the balance fixed at $12,745.46, & interest from Sept. 21, 1874.

1055 Ex. 1.

United States circuit court for the southern district of New York.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C.,
against
JOHN Q. PREBLE, UNITED STATES TRUST Company of New York, as executor, &c., of Mary Ann Sparkman, deceased, and James D. Sparkman.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

William Darrow, being duly sworn, says that he is the secretary of the United States Trust Company of New York, the receiver in the above-entitled cause, appointed such by an order made in this cause by the United States district court for the southern district of New York, dated on or about the 29th day of January, 1870, and filed February 10th, 1870. That the annexed account is a just, full, and true account of all sums of money received by said company as receiver as aforesaid belonging to the estate of said Mary Ann Sparkman, deceased, and interest thereon at the rate of four per cent. per annum, so far
1056 as the same have ever come to the knowledge and possession of said receiver, and also a just and true account of all disbursements on account of said estate which have been paid by said receiver or by any other person by its order or for its account. Also, that the several sums of money mentioned in the said account to have been paid or allowed by said receiver were actually paid or allowed by said receiver for or on account of the said estate.

And this deponent further saith that he does not know of any error or omission in the said account to the prejudice of any of the parties in said cause.

W. DARROW.

Sworn to before me this 21st day of September, 1874.

W. A. W. STEWART,
Notary Public, N. Y. Co.

D'R. *In account with the United States Trust Company of N. Y.* C'R.

1870.			1870.		
Feb. 21	To cash p'd R. E. Stilwell	25 ..	Feb. 18	By cash int. Preble b'd	1,400 ..
June 22	" " E. S. Van Winkle	25 ..	May 2	" " " "	1,400 ..
Dec. 7	" " N. Y. Eve. Post	1,075 50	Oct. 6	" div. for Buckmaster, trustee	5,089 35
" 27	" " T. C. T. Buckley	500 ..	Nov. 1	" int. Preble	1,400 ..
31	" " E. S. Van Winkle	7 ..	1871.		
1871.			May 2	" " "	1,400 ..
June 12	" " T. C. T. Buckley	500 ..	Nov. 2	" " "	1,400 ..
Oct. 26	" " Buckmaster	3,616 68	" 16	" div. for Buckmaster, trustee	4,275 05
1872.			1872.		
Jan. 26	" " A. H. Wallis	650 ..	May 4	" int. Preble	1,400 ..
Feb. 19	" " J. D. Sparkman	600 82	Nov. 1	" " "	1,400 ..
June 14	" " do.	1,400 ..	1873.		
Nov. 2	" " do.	1,400 ..	Jan. 22	" div. Buckmaster, trustee	610 72
1873.			Feb. 17	" div. Buckmaster, trustee	305 35
May 5	" " do.	1,400 ..	M'ch 3	" do.	305 35
Nov. 5	" " do.	1,274 ..	" 11	" do.	305 35
1874.			" 21	" do.	305 35
Apr'l 20	" " E. S. Van Winkle	650 ..	May 2	" int. Preble	1,400 ..
May 21	" " J. D. Sparkman	1,386 ..	Aug. 1	" div. Buckmaster, trustee	610 71
" "	Comm's on B. & M. int. rec'd 1 %	140 ..	Nov. 1	" int. Preble	1,400 ..
July 15	" in full to date 40,000, 13 252.21, @ 1 %	532 32	" 5	" div. Buckmaster, trustee	1,425 01
" "	Balance	13,726 88	1874.		
			May 12	" int. Preble	1,400 ..
			July 15	Interest to date	1,676 96
		28,909 20			28,909 20
1874.			1874.		
July 15	To cash p'd E. S. Van Winkle, (bal. 12,745.46)	981 42	July 15	By balance	13,726 88
"	" balance	12,745 46			
		13,726 88			13,726 88
				N. Y., July 15, '74. Balance Ja's S. Clark, Sept. 21, int. to date ...	93 46
				Copy, b'k ...	12,838 92

1058 (Endorsed:) U. S. circuit court. John Sedgwick, as special receiver, &c., against John Q. Preble et al. Receiver's account. E'x 1. Edgar S. Van Winkle, attorney for receiver.

1059 Ex. 2.

U. S. district court.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C., *ag'st* JAMES T. SPARKMAN INDIVIDUALLY, AND AS executor, &c., and others.

The order upon the defendants made in this action on the 16th day of September, eighteen hundred and sixty-nine, requiring them to show cause why, pending this action, a receiver should not be appointed pursuant to the prayer of the bill of complaint therein, having come on for argument and been argued on the eleventh, twenty-first, and twenty-ninth days of December, eighteen hundred and sixty-nine, and the defendants, James T. Sparkman and James D. Sparkman, having at the same time upon due notice moved the court to set aside said order to show cause, and every part thereof, and to vacate and set aside the writ of injunction thereby granted, and the plaintiff filing in support
1060 of the said order, and in opposition to the said motion of the defendants, the bill of complaint in this cause, and the affidavit of William B. Nassau, sworn to the second day of December, eighteen hundred and sixty-nine, and the further affidavit of William B. Nassau, sworn to the twenty-first day of December, eighteen hundred and sixty-nine; and the defendants having read in opposition to the said order to show cause, and in support of their said motion to dissolve the said injunction, the answer of James T. Sparkman, and the bill of complaint, and the affidavit of James D. Sparkman, sworn to the twelfth day of October, eighteen hundred and sixty-nine, and the affidavit of William Boswell, sworn to the eighteenth day of December, eighteen hundred and sixty-nine, and the affidavit of James T. Sparkman, sworn to the eighteenth day of December, eighteen hundred and sixty-nine; also, stipulation as to the value of the asset', marked "Filed, January 24, 1870," all of which papers have been or are herewith filed, and T. C. T. Buckley, esq., having been heard for the defendants, and F. N. Bangs, esq., for the plaintiff, and due deliberation having been
1061 thereupon had, it is now ordered that the said motion of the defendants be and the same is hereby denied; and it is further ordered that, pending this action, the corporation called the United States Trust Company, doing business in the city of New York, be and it is hereby appointed to be a receiver of a certain bond made by the defendant, John Q. Preble, to the defendant, James T. Sparkman, as executor of the last will and testament of Mary Ann Sparkman, late of the city and county of New York, bearing date the twenty-fifth day of October, eighteen hundred and sixty-eight, in the penalty of eighty thousand dollars, conditioned for the payment by said Preble to the said James T. Sparkman, as such executor, of the principal sum of forty thousand dollars, on the first day of November, eighteen hundred and seventy-three, with interest thereon at the rate of seven per cent. per annum, payable semi-annually; and the mortgage given by said Preble to the said executor to secure the payment of the said bond, which mort-
1062 gage was recorded in the office of the register of the city and

county of New York, in liber 880 of mortgages, at page 276, or wheresoever else the same mortgage was recorded; the said bond and mortgage hereinbefore referred to being the same bond and mortgage given by said Preble to the said Sparkman, as executor, to secure the payment of the purchase-money of the premises described in the bill of complaint in this cause.

It is further ordered that the said corporation be and it is hereby appointed to be receiver pending this cause of a promissory note made by Sparkman, Place & King, to the order of James T. Sparkman, executor, bearing date January 1st, 1869, for eight thousand seven hundred and eight dollars and seventy cents, ($8,708\frac{70}{100}$,) payable on demand; and of all claims and demands of said executor against said Sparkman, Place and King for money loaned by said executor to said Sparkman, Place and King subsequent to the first day of January, eighteen hundred and sixty-nine.

It is further ordered that Richard E. Stilwell, esq., be and he is hereby appointed a special master of this court, for the purposes
1063 hereinafter expressed, and that the said James T. Sparkman, executor, do attend before the said master as required by the order or summons of said master from time to time with said bond and mortgage, and said note, then and there to produce, deliver, and assign the said bond and mortgage and note and all sums of money due or growing due thereon, and the said claims and demands to the said receiver.

It is further ordered that the said parties to this action have leave and leave is hereby given to them to apply to the court for farther directions at the foot of this order; and it is further ordered that this order is without prejudice to the ultimate rights of the parties.

Witness, the honorable Samuel Blatchford, judge of said court, at the court-room, the twenty-ninth day of January, eighteen hundred and seventy.

(Endorsed:) U. S. district court. John Sedgwick, as special receiver, &c., vs. James T. Sparkman, individually, & as executor, &c., and others. Ex't 2. Xd. Certified copy. Order. C. W. Bangs, sol'r for pl'ff. $2.00. 137.
1064

A true copy.

GEO. F. BETTS, *Clerk.*

Filed Feb. 10, 1870.

1065 EX'T. 3.

At a special term of the supreme court of the State of New York, held at the court-room in the county of Kings, on the 29th day of January, 1874.

Present, Hon. Abraham B. Tappen, judge.

JOHN SEDGWICK, AS ASSIGNEE IN BANKRUPTCY of James K. Place and James D. Sparkman,
ag'st
JAMES T. SPARKMAN, JAMES D. SPARKMAN, Charles P. Sparkman, Dora Sparkman, and Mary Young, wife of John L. Young.

This cause coming on to be heard upon the pleadings therein, and upon the resignation of the defendant, James T. Sparkman, of his office

of executor of and trustee under the will of Mary A. Sparkman, late of the city and county of New York, now deceased, such resignation being contained in his answer in this cause, and M'r F. N. Bangs
1066 being heard for plaintiff, and M'r A. H. Wallis for the defendant, it is ordered, adjudged, and determined by the court as follows:

I. That the defendant James T. Sparkman be, and he is hereby, removed from his office as executor of and trustee under the will of Mary Ann Sparkman, late of the city and county of New York, now deceased, being the same will which, as appears by the pleadings in this cause, was admitted to probate by the surrogate of the county of New York on the twenty-eighth (28th) day of November, 1866.

II. That the United States Trust Company, a body politic and corporate duly created and existing under and by virtue of the laws of the State of New York, and authorized by law to execute the trusts created by last will and testament, be, and it is hereby, appointed to be the executor of and trustee under the said last will and testament in place and stead of the said James T. Sparkman.

III. That the said James T. Sparkman do transfer to the United States Trust Company all the assets and property in his possession or under his control, and all his right, title, and interest in, to, and upon
1067 any assets or property which constitute part of the estate of the said testatrix, to the end that the same may be administered by the said United States Trust Company according to law, and that all lawful debts and obligations of the said testatrix, and of the said James T. Sparkman as such executor, may be paid out of the same, and the balance remaining paid out and distributed according to the directions contained in said will.

IV. That it be, and it is hereby, referred to John M. Mason, esq., of the city of New York, as referee, whensoever required by said United States Trust Company, to take a statement and account of all the property, estate, and assets of the said Mary A. Sparkman which came into the possession or under the control of said James T. Sparkman as executor of and trustee under the said will, and to ascertain and report how much of the same the said James T. Sparkman shall have paid or transferred or delivered to the said United States Trust Company under and pursuant to this decree, and to ascertain and report what amount, if any, the said James T. Sparkman may remain chargeable with by
1068 reason of not having transferred or delivered the same to his said successor, or otherwise.

V. The said United States Trust Company, as the successor to the said James T. Sparkman as executor of the said will and trustee thereunder, is hereby authorized to receive from any receiver or referee appointed by the district court of the United States for the southern district of New York any funds, assets, or property which by the said district court may have been or may hereafter be adjudged to belong to the estate of the said Mary A. Sparkman, and due credit shall be given by the said United States Trust Company, as such executor and trustee, to the said James T. Sparkman for the amount and value of any property obtained by, to, or from any such receiver.

And leave is hereby given to any of the parties to this suit to apply for further directions at the foot of this judgment.

A copy.

GEORGE G. HERMAN, *Clerk.*

1069 (Endorsed:) Ex't 3. N. Y. supreme court. John Sedgwick, as ass'ee, &c., of James K. Place and James D. Sparkman, ag'st

James T. Sparkman, James D. Sparkman, Charles P. Sparkman, Dora Sparkman, and Mary Young, wife of John L. Young. Certified copy. Judgment. x'd. C. W. Bangs, pl'ff's att'y. Filed Jan'y 29, 1874.

1070 Ex. 4.

At a stated term of the district court of the United States for the southern district of New York, held at the court-rooms thereof, in the city of New York, on the 17 day of January, 1874:

Present, Hon. Samuel Blatchford, J.

JOHN SEDGWICK AS ASS'EE, &C., OF JAMES K. Place and James D. Sparkman,
vs.
JAMES K. PLACE ET AL.

This cause coming on for final hearing upon the pleadings and proofs therein, and upon the decretal order made June thirtieth, (30,) 1871, and upon the report of Henry Wilder Allen, esq., the special master appointed by said order, and the exceptions taken to said report by the plaintiff, and by the defendants, the executors, &c., of Susan A. Place, deceased, and counsel being heard for the respective parties, and due deliberation thereupon had, it is now finally ordered, adjudged, and decreed by the court as follows:

First. It appearing, by the said report, that the defendants, Lewis W. Burritt, j'r, and Thomas T. Sheppard, did, pending this action,
1071 transfer and deliver to the receiver appointed by the order made in this cause, bearing date September third, (3d,) 1869, all the property and estate of the bankrupts with which they were chargeable, and that the court, by its said order of June thirtieth, (30,) 1871, authorized and directed the receiver to transfer and deliver all of said property to the plaintiff in this cause, the plaintiff is not entitled to any further judgment, decree, or recovery against the said Burritt and Sheppard, or either of them.

Second. The amount which the plaintiff, under the third and fourth clauses of said order of June thirtieth, (30,) 1871, is entitled to recover of and from the defendant James T. Sparkman, as executor of the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, is fixed and adjusted at the aggregate of the following sums, namely, $17,202.50 & interest thereon from the fifth day of August, 1869, and $28,340 and interest thereon from the eighth day of July, 1869, which several sums amount in the aggregate to $59,-788.02; and that the plaintiff do recover from the defendant
1072 James D. Sparkman, as executor of the last will and testament of the said Mary Ann Sparkman, the said sum of $59,788 02, to be paid, levied, and collected out of the goods, chattels, and credits which were of the said Mary Ann Sparkman, deceased, in the ordinary course of administration of the estate of the said deceased, subject to the right of the said executor to have applied in reduction of said recovery, whensoever payment thereof shall be applied for in the ordinary course of administration of said estate, or according to the laws of the State of New York, the proceeds of the several notes, claims, demands, and causes of action mentioned in said order of June 30th, 1871.

Third. The amount of the liability of the defendants, the executors of the last will and testament of Susan A. Place, deceased, to the plaintiff, under and by virtue of the seventh and eighth clauses of said order of

June thirtieth, (30,) 1871, is hereby fixed and adjusted at the sum of sixteen thousand dollars and interest thereon from the tenth day of June, 1868, amounting in the aggregate to the sum of twenty-two thousand one hundred and sixty dollars, ($22,160;) and it is ordered, adjudged, and determined that the plaintiff do recover of the defendants, the executors of the said Susan A. Place, deceased, the said sum of $22,160 and interest thereon from the date of this decree, to be levied and collected of the goods, chattels, and credits which were of the said Susan A. Place. 1073

Fourth. It is further ordered, adjudged, and decreed that the defendants, composing the firm of J. L. Phipps & Co., are entitled out of the moneys in the hands of James Thomson, esq., one of the receivers in this cause, to be paid the sum of $86,127.67 and interest thereon from the sixteenth (16) day of November, 1872, amounting at the date of this decree to the sum of $93,161.42, (being the whole residue of the fund remaining in the hands of the said James Thomson as such receiver,) less the sum of dollars, hereby awarded to the said James Thomson for his commissions as such receiver, and that the said James Thomson, receiver, do pay to the said J. L. Phipps & Co. the said sum of $93,161.42, after deducting his aforesaid commissions.

Fifth. It is further ordered, adjudged, and decreed that the said plaintiff do recover of the defendants, the executors of Susan A. Place and the executors of Mary A. Sparkman, his costs, to be taxed, and that the defendants, Henry J. Cullen, j'r, John W. Cross, John Lewis Phipps, Charles Paul Phipps, William Turner Holworthy, B. Fletcher Allen, Charles Thomas Gostenhoffer, Charles Edward Phillips, Joseph S. Barker, and Nicholas P. Bernard, their costs in this action to be taxed. 1074

GENTLEMEN: The proposed decree, of which a copy is herewith served upon you, will be submitted for settlement to the judge of this court, at the court-rooms thereof, on Saturday, January 17th, 1874, at 11 a. m. Dated January 9th, 1874.

Yours, &c.,

C. W. BANGS,
Pl'ff's Sol'r.

To the solicitors for the defendants respectively.

(Endorsed:) Ex. 4. U. S. district court. John Sedgwick, as ass'ee &c., vs. James K. Place et al. Copy. Final decree and notice of settlement. C. W. Bangs, pl'ff's sol'r. Marsh & Wallis, esq's.

1075, 1076 Ex. 5.

At a stated term of the district court of the United States for the southern district of New York, held at the court-rooms of said court on the first day of October, 1870:

Present, Hon. Samuel Blatchford, J.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C.,
ag'st
JOHN Q. PREBLE ET AL.

On reading and filing the consent of the solicitors for the respective parties—

Ordered, that the plaintiff do print thirty copies of the pleadings in this cause, and of the testimony therein, ten copies for each solicitor.

that the original depositions and exhibits may be placed in the hands of the printer for that purpose, and need not be filed until such printing shall be completed, and that the expense of such printing, 1077, 1078 including a reasonable fee to the solicitor and counsel who shall superintend such printing, be paid by the United States Trust Company, one of the receivers in this cause, out of the funds in the hands of such receiver.

[L. S.] SAM'L BLATCHFORD.

A true copy from the original on file.

UNITED STATES. NEW YORK. DISTRICT SEAL, SOUTHERN DISTRICT.

GEO. F. BETTS, *Clerk.*

(Endorsed:) Ex. 5. 1–67. U. S. district court. John Sedgwick, as special receiver, &c., ag'st John Q. Preble et al. Certified copy. Order for printing. C. W. Bangs, sol'r for pl'ffs. Sparkman, $1,075.50. F'l'. Dec. 7, '70. Filed Oct. 1, 1870.

1079 Ex. 6.

At a stated term of the district court of the United States for the southern district of New York, held at the court-rooms of said court on the 23rd day of October, 1871:

Present, Hon. Samuel Blatchford, J.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C., *vs.* JOHN Q. PREBLE ET AL.

Upon reading and filing the consent of the solicitors for the parties respectively, it is ordered that the United States Trust Company, the receiver appointed in the cause, do, out of the funds in its hands, pay to William P. Buckmaster, as trustee in bankruptcy of the corporation called Sparkman, Place and King, the sum of three thousand six hundred and sixteen & $\frac{68}{100}$ dollars, and do also pay to the defendant James D. Sparkman the interest which shall have accrued pending this 1080 action upon the bond and mortgage of John Q. Preble, held by the said receiver in this cause, after deducting from such interest any payments heretofore made by said receiver by leave of the court, and also the amount of the said payment to William P. Buckmaster, the said payment hereby authorized to be made to be chargeable to the said James D. Sparkman and recoverable from him in case there shall be in this action, upon appeal, or otherwise a final decree in favor of the plaintiff.

SAM'L BLATCHFORD.

A true copy of the original order on file.

G. F. BETTS, *Clerk.*

N. Y., *Oct.* 26, 1871.

Received from N. Y. Trust Company, in pursuance of foregoing, three thousand six hundred & sixteen $\frac{68}{100}$ dollars.

$3,616\frac{68}{100}$.

W'M P. BUCKMASTER, *Trustee.*

N. Y., *Feb.* 19, 1872.

Received from U. S. Trust Co. of N. Y. six hundred $\frac{82}{100}$ doll's in
1031 pursuance of the foregoing order.
600 $\frac{82}{100}$.

J. D. SPARKMAN.

Memorandum for W. Darrow, esq, sec'ty U. S. Trust Co., from Bangs & North, counsellors at law, No. 137 Broadway, New York:

I am instructed by M'r Bangs to inform you that we have no objection to your paying the interest to M'r James D. Sparkman as per the within order.

Yours, &c.,

BANGS & NORTH,
P. W. B. N.

Nov. 5, '73.

NEW YORK, *May* 20, 1874.

To the United States Trust Company:

GENT.: I have seen M'r Bangs with reference to M'r Sparkman's claim under the order which I now return to you. He says he does not wish to re-affirm the orders, but makes no objection to your paying
1082 M'r Sparkman whatever balance of interest may be due to him as per terms of the order. Your company holds the fund as receiver and not as executor.

Yours, truly,

EDGAR S. VAN WINKLE.

(Endorsed:) Ex. 6. U. S. district court. John Sedgwick, as special receiver, &c., vs. John Q. Preble et al. x'd. Certified copy. Order. C. W. Bangs, solicitor. Order for payment to James D. Sparkman of interest received on bond and mortgage of J. Q. Preble.

1083 Ex. 7.

U. S. circuit court, southern district of New York, in the second circuit.

JOHN SEDGWICK, AS SPECIAL RECEIVER, APELLANT, *ag'st* THE UNITED STATES TRUST COMPANY, AS EXECUTOR of and trustee under the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, substituted in place of James T. Sparkman removed, impleaded with others, appellees,

JOHN SEDGWICK, AS ASSIGNEE IN BANKRUPTCY of James K. Place and James D. Sparkman, appellees, *ag'st* THE SAME, APPELLANT.

Upon the consent of Edgar S. Van Winkle, solicitor for the
1084 United States Trust Company, executor, &c., and of C. W. Bangs, solicitor for the plaintiff, it is ordered that the United States

Trust Company of New York pay to Edgar S. Van Winkle, out of the property held by it as receiver in the cause first above mentioned, the sum of six hundred and fifty dollars on account of his counsel fees and cash disbursed in the two above-entitled causes as solicitor and counsel therein for the said company as substituted executor as aforesaid; and it is further ordered that John Sedgwick, as special receiver in the second of the above-entitled causes, pay to the plaintiff's solicitor and counsel in the second of said causes the sum of seven hundred and fifty dollars on account of services as solicitor and counsel for the plaintiff, and that a copy of this order be served upon the parties respectively.

(Signed) SAM'L BLATCHFORD.

A copy.

KENNETH G. WHITE, *Clerk.*

1085 (Endorsed:) Ex. 7. U. S. circuit court. John Sedgwick, as special receiver, &c., appellant, against The U. S. Trust Company of New York, executor, &c., impleaded with John Q. Preble & al., appellee. John Sedgwick, assignee, &c., appellee, against The Same, impleaded with James K. Place & al., appellant, x'd. Certified copy order. C. W. Bargs, sol'r for p's, appellant & appellee.

1086 Ex. 8.

NEW YORK, *July* 13, 1874.

The United States Trust Company of New York, executor of and trustee under the last will and testament of Mary Ann Sparkman, dec'd, to Edgar S. Van Winkle, Dr.

1874.		
April 20.	To retainer in the two causes in equity now pending on appeal in the U. S. circuit court for southern district of New York, against you as trustee and executor, one by John Sedgwick, as special receiver, and the other by John Sedgwick, as assignee in bankruptcy of James K. Place & James D. Sparkman	$500
" " "	cash disbursed to date for clerk's fees, printing, &c.	242 02
June 13.	" preparing and printing points & brief for and argument of your appeal in U. S. circuit court, in cause commenced in U. S. district court by John Sedgwick, as assignee in bankruptcy of James K. Place & James D. Sparkman, against you from judgment for $59,788.02, relative to the proceeds of the $40,000 U. S. bonds, in May, 1874	500
" " "	preparing and printing points and brief & for argument of appeal of John Sedgwick, special receiver in U. S. circuit court, from judgment dismissing his bill in cause in U. S. district court against you, John Q. Preble, & others	250
1087		$1,492 02
1874.		
April 20.	By cash on a/c	650

		$842 02
July 13.	To services to date in the two suits above mentioned, including for receiving proposed decree preparing and serving amendments thereto, attending at Utica on settlement of decree, and for consultations & correspondence in relation to proposed appeals.....	100
" "	To cash disbursed to date for clerk's fees, copy opinion of Judge Hunt, and for traveling expenses to Utica.....	39 40
		$981 42

Received payment.

EDGAR S. VAN WINKLE.

(Indorsed:) The United States Trust Co., ex'r of Mary Ann Sparkman, dec'd. $981.42. Ex. 8.

1088 Ex. 9.

SEDGWICK
vs.
PLACE.

Francis N. Bangs.
Thomas M. North.
Charles W. Bangs.
William B. Nassau.

LAW OFFICE OF BANGS & NORTH,
137 *Broadway, New York, June* 19, 1874.

DEAR SIR: I have yours of to-day, with the enclosed bill about which you ask my views. Personally, I think the bill reasonable, & presume it would be allowed the executor & trustee in account as against the legatees. Whether it would be allowed as against the creditor is doubtful. A half-year's interest on $28,000 has been recently paid, I understand, to M'r Sparkman. I have no doubt it would be a proper charge against him. I do not think it would be a proper charge against the funds in the hands of the co. as receivers.

M'r Sedgwick, as assignee of M'r Sparkman, is entitled to the one-fourth of the corpus of the estate which would come to James T. Sparkman after his father's death. In that capacity, M'r Sedgwick did
1089 not desire any further expense to be incurred by the executor & trustee in resisting the claims referred to in your bill.

Yours, truly,

F. N. BANGS.

E. S. VAN WINKLE, Esq.

1090 Ex. 10

This indenture, made the day of October, eighteen hundred and seventy-four, by and between The United States Trust Company of New York, as receiver, appointed by the district court of the United States for the southern district of New York in the action hereinafter mentioned, party of the first part, and The United States Trust Company of New York, as executor of and trustee under the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, party of the second part, and John Sedgwick, as assignee in bankruptcy of the separate estate of James D. Sparkman, party of the third part:

Whereas in an action pending in the district court of the United States

for the southern district of New York, between John Sedgwick, as special receiver, &c., plaintiff, and John Q. Preble, James D. Sparkman, and others, as defendants, the said party of the first part was appointed to be receiver in said cause of the property hereinafter mention d;

And whereas upon an accounting duly had in the said cause, upon
1091 an appeal taken therein to the circuit court of the United States for the southern district of New York, it was found that the said party of the first part, as such receiver, was accountable to the plaintiff for the said property hereinafter described and transferred, and thereupon the said circuit court, by its final decree in the said cause, bearing date the day of , eighteen hundred and seventy-four, did order, adjudge, decree, and determine that the said party of the first part and the said party of the second part should execute and deliver to said party of the third part this present instrument and indenture:

Now, therefore, this indenture witnesseth that the said parties of the first and second parts, for and in consideration of the premises and of the said order and decree of the said circuit court and in obedience thereto, have bargained and sold, assigned, transferred, and set over, and by these presents do bargain and sell, assign, transfer, and set over unto the said party of the third part, his successors in office and assigns, all that certain indenture of mortgage bearing date the twenty-
1092 fifth day of October, eighteen hundred and sixty-eight, made by John Q. Preble of the first part thereto, to James T. Sparkman, as executor of the last will and testament of Mary Ann Sparkman, deceased, recorded in the office of the register of the city and county of New York, in liber 880 of mortgages, page 276, given to secure payment of the principal sum of forty thousand dollars and interest thereon at the rate of seven per cent. per annum, together with the bond or obligation therein mentioned or described, and all moneys due and to grow due thereon; and also a certain promissory note made by the corporation called Sparkman, Place & King, payable to the order of James D. Sparkman, executor, on demand, dated January first, (1st,) eighteen hundred and sixty-nine, for eight thousand seven hundred and eight dollars and seventy cents, on which note dividends & payments have been made, which have been duly accounted for by said receiver; and also a certain open account or claim now held by said party of the first part against the said corporation of Sparkman, Place & King, the original amount of which was eleven thousand one hundred and twenty-nine dollars and
1093 seventy-seven cents, on which certain dividends and payments have been made, which have been duly accounted for by said receiver. To have and to hold the said bond and mortgage and said promissory note and said claim or open account to said party of the third part, his successors in office and assigns, absolutely and forever.

In witness whereof the said parties of the first and second parts have hereunto set their corporate name and seal and caused these presents to be attested by their president.

Sealed and delivered in the presence of—

(Endorsed:) United States circuit court, southern district of
1094 New York. John Sedgwick, as special receiver, &c., vs. John Q. Preble et al. Master's report. Ex. A, No. 2, p. 255. Filed Oct. 19, 1874.

1095 Circuit court of the United States for the southern district of New York.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C.,
vs.
JOHN G. PREBLE, THE UNITED STATES TRUST Company of New York, as executor and trustee of the last will and testament of Mary Ann Sparkman, deceased, & substituted as such in place of James T. Sparkman, removed, and James D. Sparkman.

Exceptions taken by the United States Trust Company, as receiver, &c., appointed by order made in this cause by the district court of the United States for the southern district of New York, dated the twenty-ninth day of January, 1870, and filed February 10th, 1870, and as defendant, as executor and trustee of the last will and testament of Mary Anne Sparkman, deceased, to the report made herein by Kenneth G. White, one of the masters of this court, to whom this cause was
1096 preferred by an order made and entered on the sixteenth day of June, 1874, which report bears date the fifth day of October, 1874.

FIRST EXCEPTION.—For that the said master, in his said report, disallowed the credit item in the receiver's account for the sum of nine hundred and eighty-one dollars and forty-two cents, for which the said receiver claimed credit in said account as for cash paid E. S. Van Winkle, esq., on the thirteenth day of July, 1874, whereas the said master should have allowed the said receiver credit for said item as the same was claimed and included in said receiver's account.

SECOND EXCEPTION.—For that said master, in his said report, found and reported that the balance of cash in the hands of the said receiver in this cause and with which it is charg'able is thirteen thousand seven hundred and twenty-six dollars and eighty-eight cents, and interest thereon at the rate of four per cent. per annum from the fifteenth day of July, 1874, to the date of this report, which principal and interest amount, at the date of this report, to the sum of thirteen
1097 thousand eight hundred and forty eight dollars and eighty-nine cents, whereas the said master should have found and reported that the said balance of cash was twelve thousand eight hundred and thirty-eight dollars and ninety-two cents, and interest thereon at the rate of four per cent per annum from the twenty-first day of September, 1874, to the date of this report, which principal and interest amount, at the date of this report, to the sum of twelve thousand eight hundred and fifty-eight dollars and eighty-nine cents. And for that said master in his said report reported that the amount which the plaintiff is entitled to recover of the defendant, The United States Trust Company of New York, as executor of the last will and testament of the said Mary Anne Sparkman, at the date of this report, is twenty-seven thousand two hundred and ten dollars and seventy-one cents, which sum I have arrived at by charging the said United States Trust Company, as directed by said decree, with the sum of fifteen thousand seven hundred and eighty-eight dollars and the further sum of twenty-five thousand two
1098 hundred and seventy-one dollars and sixty cents, and by deducting from the aggregate of the said sums the aforesaid sum of thirteen thousand eight hundred and forty-eight $\frac{89}{100}$ dollars, being the

balance remaining in the hands of the said receiver as aforesaid, whereas the said master should have found and reported that the amount which the plaintiff is entitled to recover of the defendant, The United States Trust Company of New York, as executor of the last will and testament of the said Mary Ann Sparkman, at the date of this report, is twenty-eight thousand two hundred dollars and seventy-one cents, which sum I have arrived at by charging the said United States Trust Company, as directed by said decree, with the sum of fifteen thousand seven hundred and eighty-eight dollars, and the further sum of twenty-five thousand two hundred and seventy-one dollars and sixty cents, and by deducting from the aggregate of the said sums the aforesaid sum of twelve thousand eight hundred and fifty-eight dollars and eighty-nine cents, being the balance remaining in the hands of the said receiver as aforesaid.

1099 Dated 22nd October, 1874.

EDGAR S. VAN WINKLE,
Solicitor for United States Trust Company, Receiver, &c., and Executor & Trustee, &c., 48 Wall st., N. Y.

(Endorsed:) Circuit court of the United States for the southern district of New York. John Sedgwick, as special receiver, &c., against John Q. Preble, The United States Trust Company of New York, as executors, &c. U. S. Trust Company's exceptions to master's report. Exceptions allowed Oct. 29, 1874. S. B. Ex. A, No. 2, p.

1100 255. Filed Oct. 23, 1874. Edgar S. Van Winkle, sol'r for the United States Trust Company, 48 Wall street, N. Y.

1101 At a stated term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York, on Monday, the 9th day of November, in the year of our Lord one thousand eight hundred and seventy-four.

Present, the honorable Samuel Blatchford, circuit judge.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C.,
vs.
JOHN Q. PREBLE, THE UNITED STATES TRUST COMPANY OF N. Y., EX'R, &C.

This cause coming on to be heard upon the report of Kenneth G. White, esq., the master named in the decree of June 16, 1874, and the exceptions thereto filed by the receiver in this cause, and by the defendant, The United States Trust Company of New York, executor, &c., and M'r F. N. Bangs being heard for the plaintiff and M'r F. B. Candler for the receiver in this cause and for the defendants, The United States Trust Co. of New York, as ex'r, &c., it is now finally ordered, adjudged, and decreed that the said exceptions be, and the same are hereby, sustained; and that the said receiver and the defendant, The United States Trust Company, as executor of and trustee under the last will

1102 and testament of Mary Ann Sparkman, do attend before the said master as they may be required by his order or summons, and execute and deliver to the plaintiff or his solicitor the assignment, of which the form is annexed to said report, and do deliver to the plaintiff or his solicitor at the same time the bond and mortgage and note therein mentioned, and at the same time pay to the said master the sum of fifty dollars for his fees, and to the plaintiff or his solicitor the sum of twelve thousand eight hundred and eight dollars and eighty-nine cents,

being the balance of cash with which the said receiver is chargeable; and that the plaintiff do recover of the defendant, The United States Trust Company of New York, as executor of and trustee under the last will and testament of Mary Ann Sparkman, deceased, the principal sum of twenty-eight thousand two hundred dollars and seventy-one cents, and interest thereon from the date of said report to the date of this decree, amounting in the aggregate to the sum of twenty-eight thousand three hundred and four dollars and eighty-nine cents, to be levied and collected of the goods, chattels, and credits which were of the said Mary Ann Sparkman, deceased.

It is further ordered, adjudged, and decreed that the defendants in this action, other than the defendant John Q. Preble, be, and they
1103 are hereby, perpetually restrained and enjoined from collecting and receiving anything on said note or account, or any of the moneys due or to accrue on the said bond and mortgage, for principal or interest, and that the defendant John Q. Preble be, and he is hereby, perpetually restrained and enjoined from paying any portion of the amount due or to grow due on the said bond and mortgage for principal or interest, to any person other than the plaintiff, his successors in office, or assigns, except that in case of an appeal being duly taken from this decree and security given so as to effect a supersedias, he may pay the amount from time to time growing due or becoming payable on said bond and mortgage to said receiver until such appeal shall have been disposed of according to law.

(Signed) SAM'L BLATCHFORD.

(Endorsed:) Filed Nov. 9, 1874.

1104 United States circuit court for the southern district of New York, second circuit.

THE UNITED STATES TRUST COMPANY OF NEW YORK, as executor of and trustee under the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, substituted as such in place and stead of James T. Sparkman, removed, appellant,

vs.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C., appellee.

Notice of claim of appeal.

Please take notice that the defendant, The United States Trust Company of New York, as executors of and trustee under the last will
1105 and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, substituted as such in place and stead of James T. Sparkman, removed, claims an appeal, and hereby appeals, to the Supreme Court of the United States from so much of the judgment and decree in the above-entitled cause, dated on the 24th day of October, 1874, filed and entered in the office of the clerk of the circuit court of the United States for the southern district of New York, second circuit, on the 9th day of November, 1874, as adjudges and decrees that the United States Trust Company of New York, as receiver in this cause, and the United States Trust Company of New York, as executor of and trustee under the last will and testament of Mary Ann Sparkman, de-

ceased, do attend before Kenneth G. White, esquire, the master named in the decree in this action of June the sixteenth, 1874, as they may be required by his order or summons, and execute and deliver
1106 to the plaintiff or his solicitor the assignment, of which a form is annexed to the report of said master, and do deliver to the plaintiff or his solicitor at the same time a bond and mortgage and the note therein mentioned, and the same time pay to the said master the sum of fifty dollars for his fees, and to the plaintiff or his solicitor the sum of twelve thousand eight hundred and eight dollars and eighty-nine cents, being the balance of cash with which the said receiver is chargeable, and that the plaintiff do recover of the defendant, The United States Trust Company of New York, as executor of and trustee under the last will and testament of Mary Ann Sparkman, deceased, the principal sum of twenty-eight thousand and two hundred dollars and seventy-one cents and interest thereon from the date of said report to the date of said decree, amounting in the aggregate to the sum of twenty-
1107 eight thousand three hundred and four dollars and eight' nine cents, to be levied and collected of the goods, chattels, and credits which were of the said Mary Ann Sparkman, deceased; and that the defendant in this action, other than the defendant John Q. Preble, be and they are thereby perpetually restrained and enjoined from collecting and receiving anything on said note or account or any of the monies due or to accrue on the said bond and mortgage for principal or interest; and that the defendant John Q. Preble be, and he is thereby, perpetually restrained and enjoined from paying any portion of the amount due or to grow due on the said bond and mortgage for principal and interest to any person other than the plaintiff, his successors in office, or assigns, except that in case of an appeal being duly taken from said decree and security given so as to effect a supersedeas, he may
1108 pay the amount from time to time growing due or becoming payable on said bond and mortgage to said receiver until such appeal shall have been disposed of according to law.

EDGAR S. VAN WINKLE,
Solicitor for the United States Trust Company of New York, Appellant.

To KENNETH G. WHITE, Esquire,
Clerk of the United States Circuit Court.
C. W. BANGS, *Esq're, Solicitor for Appellee.*

Due and timely service of the foregoing claim and notice of appeal is hereby admitted.
New York, November 19th, 1874.

C. W. BANGS,
Solicitor for Complainant.

1109 (Endorsed:) U. S. circuit court for the southern district of New York, second circuit. The United States Trust Company of New York, as executor and trustee, &c., appellant, vs. John Sedgwick, as special receiver, &c. Notice of appeal. Filed Nov. 19, 1874. Edgar S. Van Winkle, solicitor for appellant, 48 Wall street, N. Y.

1110 *Petition of appeal.*

Circuit court of the United States for the southern district of New York, second circuit.

THE UNITED STATES TRUST COMPANY OF NEW York, as executor of and trustee under the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, impleaded with others, appellant,
vs.
JOHN SEDGWICK, AS SPECIAL RECEIVER, &C., appellee.

To the honorable the Supreme Court of the United States:

The appeal of the United States Trust Company of New York, as executor of and trustee under the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, one of the above-named defendants, and the appellant above named, showeth:

That on or about the eleventh day of September, one thousand
1111 eight hundred and sixty-nine, the above-named complainant filed his bill of complaint in the district court of the United States for the southern district of New York against John Q. Preble and John D. Sparkman, individually, and as executor of the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, as defendants in a cause in equity, to recover certain personal property, the proceeds of certain leasehold premises, as being part of estate of said James D. Sparkman, bankrupt, in and by which said bill of complaint the said complainant amongst other things alleged that theretofore said James D. Sparkman was lessee for a term of twenty-one years from May the first, one thousand eight hundred and sixty-three, of two lots of land in the city of New York, and that said James D. Sparkman, by deed dated November the ninth, one thousand eight hundred and sixty-five, and duly recorded, as
1112 signed the said lease and term of years in said premises to James K. Place, and said James K. Place, by deed dated December the first, one thousand eight hundred and sixty-five, and duly recorded, assigned said lease and term of years to Mary Ann Sparkman, wife of James D. Sparkman, and that after the making of the said assignment the said James D. Sparkman continued the actual use and possession of the said premises until in or about the month of October, one thousand eight hundred and sixty-eight; and the said Mary Ann Sparkman having died in or about the said month of October, one thousand eight hundred and sixty-eight, left her certain last will and testament whereby she devised and bequeathed her estate in trust for the use and benefit of (to the extent of the income of her estate) her husband, said James D. Sparkman, for his natural life, and appointed James T. Sparkman, one of the said defendants, the executor of said will, who duly qualified as such executor; and that thereafter, by deed dated October twenty-fifth, one thousand eight hundred and sixty-eight, and
1113 duly recorded, the said executor assigned said lease and term of years to said defendant John Q. Preble for the consideration of sixty thousand dollars, and that said Preble, for part of said consideration, executed to said executor his bond for fifty thousand dollars

with interest, and to secure the payment of such bonds said Preble executed a mortgage on said leasehold premises, which mortgage was duly recorded; and that said assignment to said Place and to the said Mary Ann Sparkman and the said will were all made in pursuance of a design to secure to said James D. Sparkman the benefit of said leasehold property, and to defraud the creditors of said James D. Sparkman, all which more fully and at large appears by the said bill of complaint on file in said district court, and by a copy thereof duly certified to and on file in said circuit court.

That said James D. Sparkman duly appeared in said cause and filed his answer to the said bill of complaint, and the said
1114 James D. Sparkman amongst other things alleged that it was true, and he therefore admitted that he had been the lessee for the term of twenty-one years of the premises particularly described in the said bill of complaint, and that he had held the same under the lease mentioned and referred to in said bill of complaint; and, further answering, the said James D. Sparkman denied that after the making of the said deeds of assignment of the said lease & leasehold premises he continued in the actual use and occupation of the said premises thereby conveyed, and until in or about the month of October, one thousand eight hundred and sixty eight; and, further answering, denied that the said assignments to said James K. Place and Mary Ann Sparkman and the said will of said Mary Ann Sparkman, or any or either of them, were made in pursuance of a design to secure to said defend-
1115 ant the benefit of said leasehold premises or any part thereof or to defraud any of his creditors.

That said James T. Sparkman, as executor of the last will and testament of Mary Ann Sparkman, deceased, also appeared in said cause and filed his answer to the said bill of complaint, in and by which said answer he alleged that it was true, and he therefore admitted, that the said James D. Sparkman had been lesse' for a term of twenty-one years of the two lots of land particularly described in said bill of complaint; that the said James D. Sparkman, prior to the first day of December, one thousand eight hundred and sixty-five, had executed a deed, dated November the ninth, one thousand eight hundred and sixty-five, duly recorded, whereby he assigned and conveyed to James K. Place the said lease and term of years, and that by a deed bearing date the first day of December, one thousand eight hundred and sixty-five, duly
1116 recorded, the said James K. Place assigned to said Mary Ann Sparkman the said lease and term of years, and that said Mary Ann Sparkman thereafter died, leaving her last will and testament as in said bill of complaint alleged, whereby she devised and bequeathed unto her executors therein named all her estate, real and personal, with the rents, issues, and profits thereof, in trust, to invest the same or the proceeds thereof, and to apply certain of said rents, issues, and profits to the support and maintenance of said James D. Sparkman for his natural life.

And said defendant, further answering, said that in due course of the administration of the estate of Mary Ann Sparkman, and of the execution of the trusts thereby created, he sold said lease and leasehold premises to the defendant John Q. Preble, and that said John Q. Preble, in part payment of the consideration for such lease and leasehold premises, executed and delivered to said executor his bond and
1117 mortgage upon the said household premises, which are the same bond and mortgage mentioned and referred to in the said bill of complaint; and further answering, said that it was not true, and that he therefore denied, that the said assignments to said James K. Place

and Mary Ann Sparkman and the said will of the said Mary Ann Sparkman, any or either of them, were made in pursuance of a design to secure to the said James D. Sparkman the benefit of the said leasehold premises or any part thereof, or to defraud any of the creditors of the said James D. Sparkman.

And thereafter general replications were put in to the above answers, as will more fully and at large appear by said answers and replications, on file in said district court, and by the copies thereof duly certified to and on file in the said circuit court. That thereafter, by a rule or order of the said district court in said cause, the United States
1118 Trust Company of New York, your petitioner, was appointed to be receiver of said bond made by the defendant John Q. Preble to the defendant James T. Sparkman, as executor as aforesaid, and the said mortgage given by said Preble to said executor to secure the payment of the said bond, and to be the receiver pending this cause of the promissory note made by Sparkman, Place and King to the order of James T. Sparkman, executor, bearing date January the first, one thousand eight hundred and sixty-nine, for eighty-seven hundred and eight dollars and seventy cents, and of all claims and demands of said executor against said Sparkman, Place & King for money loaned by said executor to said Sparkman, Place and King subsequent to the first day of January, one thousand eight hundred and sixty nine.

And thereafter such proceedings were had in the said cause that on the seventeenth day of January, one thousand eight hundred and
1119 seventy four, a final judgment and decree was duly made in the said circuit court upon the testimony, proofs, and proceedings in said cause, by which said decree it was ordered and adjudged that the said bill of complaint be dismissed from and out of said district court with costs, as by reference thereto will more fully and at large appear.

That thereafter and on or about the twenty-second day of January, one thousand eight hundred and seventy-four, the said complainant duly appealed from said final judgment and decree to the said circuit court of the United States for the sourthern of New York, in said second circuit; and thereafter and on or about the twenty-ninth day of January, one thousand eight hundred and seventy-four, by a judgment and decree duly made and entered in an action then pending in the supreme court of the State of New York for Kings County,
1120 between John Sedgwick, as assignee in bankruptcy of James K. Place, and James D. Sparkman, as plaintiff, against James T. Sparkman, James D. Sparkman, Charles P. Sparkman, Dora Sparkman, and Mary Young, wife of John L. Young, as defendants, the said The United States Trust Company of New York was appointed to be executor of and trustee under the last will and testament of Mary Ann Sparkman, deceased, in place and stead of the said James T. Sparkman, all of which will more fully and at large appear by the petition of the said United States Trust Company of New York, dated the eleventh day of March, one thousand eight hundred and seventy-four, and filed in the office of the clerk of said district court, and the copy thereof duly certified to filed in the office of said circuit court.

That thereafter, by a rule or order duly made and entered in said district court in this cause on the twelfth day of March, one thou-
1121 sand eight hundred and seventy four, the said The United States Trust Company of New York, as executor and trustee as aforesaid, was substituted as defendant in said case in the place and stead of James T. Sparkman, as executor of the said last will and testament; that the said appeal taken as aforesaid by the complainant herein was duly prosecuted and such proceedings taken thereon that on the twenty-fourth

day of October, one thousand eight hundred and seventy-four, a final judgment and decree was pronounced by the circuit court of the United States for the southern district of New York for the second circuit, in and by which it was amongst other things adjudged and decreed that the United States Trust Company of New York, as receiver in this cause, and the United States Trust Company of New York, as executor of and trustee under the last will and testament of Mary Ann
1122 Sparkman, deceased, do attend before Kenneth G. White, esquire, the master named in the decree in this cause of June the sixteenth, one thousand eight hundred and seventy-four, as they may be required by his order and summons, and execute and deliver to the plaintiff or his solicitor the assignment, of which a form is annexed to the report of the said master, and do deliver to the plaintiff or his solicitor at the same time the bond and mortgage and the note therein mentioned, and at the same time pay to the said master the sum of fifty dollars for his fees, and to the plaintiff or his solicitor the sum of twelve thousand eight hundred and eight dollars, eighty-nine cents, being the balance of costs with which the said receiver is chargeable, and that the plaintiff do recover of the defendant The United States Trust Company of New York, as executor of and trustee under the last will and
1123 testament of Mary Ann Sparkman, deceased, the principal sum of twenty eight thousand two hundred dollars seventy-one cents and interest thereon from the date of the said report to the date of said decree, amounting in the aggregate to the sum of twenty-eight thousand three hundred and four dollars eighty-nine cents, to be levied and collected of the goods, chattels, and credits which were of the said Mary Ann Sparkman, deceased; and that the defendants in this action, other than the defendant John Q. Preble, be, and they are thereby, perpetually restrained and enjoined from collecting and receiving anything of said note or account, or any of the moneys due or to accrue on the said bond and mortgage for principal or interest; and that the defendant John P. Preble be, and he is thereby, perpetually restrained and enjoined from paying any portion of the amount due or to grow due on
1124 the said bond and mortgage for principal and interest to any person other than the plaintiff, his successors in office or assigns, and that in case of an appeal being duly taken from said decree, and security given so as to effect a supersedeas, he may pay the amount from time to time growing due or becoming payable on said bond and mortgage to said receiver until such appeal shall have been disposed of according to law. Which said judgment and decree, as this appellant is advised, is erroneous, and ought to be reversed.

That the said company is now receiver as aforesaid under said order of said district court made the twenty-ninth day of January, one thousand eight hundred and seventy.

That the property and the proceeds, to recover which the bill of complaint herein was filed, and the amount recovered for the use and detention of the property, are in the custody and control of the court,
1125 being held by the said company as receiver as aforesaid.

That the matter in dispute in this cause exceeded and exceeds two thousand dollars.

Wherefore this appellant appeals to the Supreme Court of the United States from so much of said judgment and decree of the said circuit court of the United States as is hereinbefore recited and set forth, and from each and every part of the said decree which adjudges in substance that the said instruments, assignments, and said last will and testament were fraudulent or void; and this appellant respectfully prays that the said judgment and decree of the said circuit court, and the said bill of

complaint and answers thereto, and the replications to said answers, the depositions, evidence, orders, and decree of the said United States district court, and the decree of the said United States circuit court, and the proceedings in the said cause may be sent to the said
1126 Supreme Court of the United States without delay, and that the said Supreme Court of the United States will proceed to hear the cause, and that the said judgment and decree of the said circuit court as to the matters and in the respects aforesaid may be reversed, and the decree of the district court in respect thereof affirmed, and that such further or other decree may be made in the said cause as to the said Supreme Court shall seem just.

Dated New York, November 18th, 1874.

UNITED STATES TRUST CO. OF NEW YORK,
JOHN A. STEWART, *Pres't*,
Petitioner.

EDGAR S. VAN WINKLE,
Solicitor for Appellant.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

John A. Stewart, being duly sworn, says that he is president of the appellant above named; that he has read the foregoing petition
1127 and knows it to be true, except as to those matters therein stated upon information and belief, and as to those matters he believes it to be true.

JOHN A. STEWART.

Sworn to before me this 18th of November, 1874.
[L. S.]

The foregoing appeal allowed, bond approved, and citation signed this day of November, 1874.

(Endorsed:) U. S. circuit court for the southern district of New York. The United States Trust Company of New York, as executor and trustee, &c., appellant, vs. John Sedgwick as special receiver, &c., appellee. Petition of appeal filed Nov. 19, 1874. Edgar S. Van Winkle, solicitor for appellant, 48 Wall st., N. Y.

1128 United States circuit court for the southern district of New York, second circuit.

THE UNITED STATES TRUST COMPANY OF NEW York, as executor of and trustee under the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, substituted as such in place and stead of James T. Sparkman, removed, impleaded with others, appellant,
vs.
JOHN SEDGWICK, AS SPECIAL RECEIVER, &C., appellee.

Know all men by these presents that we, the United States Trust Company of New York, the appellant above named, and Alexander H. Wallis, of Jersey City, State of New Jersey, are held and firmly bound unto John Sedgwick as special receiver, the appellee in the above-

entitled cause, in the sum of five thousand dollars, to be paid to the said appellee, his successors, heirs, or assigns, respectively, for the payment of which, well and truly to be made, we bind ourselves, our successors, executors, administrators, and assigns, jointly and severally, firmly by these presents, sealed with our seals and dated the eighteenth day of November, one thousand eight hundred and seventy-four.

Whereas the said The United States Trust Company of New York, as executor of and trustee under the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, as appellant, has prosecuted an appeal to the Supreme Court of the United States out of the circuit court of the United States for the southern district of New York, in the second circuit, to reverse so much of the judgment and decree made and entered in the above-entitled cause, dated the twenty-fourth day of October, one thousand eight hundred and seventy-four, and filed and entered with the clerk of the said circuit court on the ninth day of November, one thousand eight hundred and seventy-four, as adjudges and decrees that the United States Trust Company of New York, as receiver in this cause, and the United States Trust Company of New York, as executor of and trustee under the last will and testament of Mary Ann Sparkman, deceased, do attend before Kenneth G. White, esquire, the master named in the decree in this action of June the sixteenth, one thousand eight hundred and seventy-four, as they may be required by his order or summons, and execute and deliver to the plaintiff or his solicitor the assignment of which a form is annexed to the report of said master, and do deliver to the plaintiff or his solicitor at the same time a bond and mortgage and the note therein mentioned, and at the same time pay to the said master the sum of fifty dollars for his fees, and to the plaintiff or his solicitor the sum of twelve thousand eight hundred and eight dollars and eighty-nine cents, being the balance of cash with which the said receiver is chargeable; and that the plaintiff do recover of the defendant, The United States Trust Company of New York, as executor of and trustee under the last will and testament of Mary Ann Sparkman, deceased, the principal sum of twenty-eight thousand two hundred dollars and seventy-one cents, and interest thereon from the date of the said report to the date of said decree, amounting in the aggregate to the sum of twenty-eight thousand three hundred and four dollars and eighty-nine cents, to be levied and collected of the goods, chattels, and credits which were of the said Mary Ann Sparkman, deceased; and that the defendants in this action, other than the defendant John Q. Preble, be and they are thereby perpetually restrained and enjoined from collecting and receiving anything on said note or account or any of the monies due or to accrue on the said bond and mortgage for principal or interest, and that the defendant, John Q. Preble, be and he is thereby perpetually restrained and enjoined from paying any portion of the amount due or to grow due on the said bond and mortgage for principal and interest to any person other than the plaintiff, his successors in office, or assigns, except that in case of an appeal being duly taken from said decree and security given, so as to effect a supersedeas, he might pay the amount from time to time growing due or becoming payable on said bond and mortgage to said receiver until such appeal shall have been disposed of according to law:

Now, therefore, the condition of this obligation is such, that if the above-named appellant, The United States Trust Company of New York,

as executor and trustee under the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, shall prosecute the said appeal to effect, and shall answer and pay all damages and costs, and any such damages for delay and costs, and interest on the appeal which shall be awarded against it, if it fail to make its appeal good, or said decree be affirmed as to the said appellee, then this obligation to be void, otherwise to remain in full force and effect.

1134 UNITED STATES TRUST CO. OF NEW YORK,
By JOHN A. STEWART, [L. S.]
President.
A. H. WALLIS. [L. S.]

Signed, sealed, and delivered in the presence of—
W. A. STEWART.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

On this eighteenth day of November, one thousand eight hundred and seventy-four, before me, personally came John A. Stewart, president of the United States Trust Company of New York, with whom I am personally acquainted, who, being by me duly sworn, stated that he resided in the city of New York; that he was president of the United States Trust Company of New York; that he knew the corporate seal of the said company, and that the seal affixed to the above instrument was such corporate seal; that it was affixed by the authority of
1135 the board of directors of the said company, and that he signed his name thereto by the like authority.

[SEAL.] W. A. W. STEWART,
Notary Public, N. Y. Co.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

On the eighteenth day of November, one thousand eight hundred and seventy-four, came before me the above-bounden Alexander H. Wallis, with whom I am personally acquainted, and acknowledged to me that he executed the above instrument for the purposes therein named.

[SEAL.] W. A. W. STEWART,
Notary Public, N. Y. Co.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

Alexander H. Wallis, being duly sworn, deposes and says that
1136 he is a freeholder in the city of New York and in the State of New Jersey; that he resides in Jersey City, in said State of New Jersey; that he is worth the sum of ten thousand dollars over and above his liabilities and property exempt from execution.

A. H. WALLIS.

Sworn to before me this 18th day of November, 1874.

[L. S.] W. A. W. STEWART,
Notary Public, N. Y. Co.

The above bond is approved as to form, and as to the sufficiency of the security.

November 19th, 1874.

SAM'L BLATCHFORD, *D. J.*

(Endorsed:) U. S. circuit court for the southern district of New York, second circuit. The United States Trust Company of New
1137 York, as executor and trustee, &c., appellant, vs. John Sedgwick, as special receiver, &c., appellee. Bond filed Nov. 10, 1874. Edgar S. Van Winkle, solicitor for appellant, 48 Wall street, N. Y.

1138 By the Hon. Samuel Blatchford, one of the judges of the circuit court of the United States for the southern district of New York, second circuit.

To John Sedgwick, as special receiver, &c.:

Whereas the United States Trust Company of New York, as executor and trustee under the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, substituted as such in place and stead of James T. Sparkman, removed, has appealed to the Supreme Court of the United States from a judgment and final decree in the circuit court of the United States for the southern district of New York, second circuit, dated on the 24th day of October, 1874, and filed and entered with the clerk of said court on the 9th day of November, 1874, in favor of John Sedgwick, as special receiver as aforesaid, as in said judgment and decree mentioned, in a suit brought by
1139 said John Sedgwick, as special receiver, as aforesaid, complainant, against the said The United States Trust Company of New York, as executor and trustee of the last will and testament of Mary Ann Sparkman, late of the city and county of New York, deceased, and others, defendants, and the said The United States Trust Company of New York, as executor and trustee, as aforesaid, having filed the security required by law, you are hereby cited to be and appear before the Supreme Court of the United States on the second Monday of October, 1875, to do and receive what may appertain to justice to be done in the premises.

Given under my hand this 19th day of November, 1874.

SAM'L BLATCHFORD.

1140 Due service of the foregoing citation this 19th day of November, 1874, is hereby admitted.

C. W. BANGS,
Solicitor for Complainant.

(Endorsed:) U. S. circuit court for the southern district of New York, second circuit. The United States Trust Company of New York, as executor and trustee, &c., appellant, vs. John Sedgwick, as a special receiver, &c., appellee. Citation. Edgar S. Van Winkle, solicitor for appellant, 48 Wall street, N. Y. Filed Nov. 19, 1874.

1141 U. S. circuit court, southern district of New York.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &C.,
vs.
UNITED STATES TRUST COMPANY OF NEW YORK, impleaded.

It is hereby stipulated and agreed by and between the respective parties above named that the foregoing constitutes the record in the above cause, filed in the said court, and is complete for all uses and purposes in the appeal heretofore taken by the United States Trust Company from

the final decree in said cause heretofore entered in said circuit court of the United States.

Dated New York, October 9, 1875.

C. W. BANGS,
Sol'r for John Sedgwick, Special Receiver.
EDGAR S. VAN WINKLE,
Sol'r for U. S. Trust Co. of New York, as Executor, &c.

1142 (Indorsed:) U. S. circuit court, southern district of New York. John Sedgwick, as special receiver, &c., vs. United States Trust Company of New York, impleaded. Stipulation.

1143 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Kenneth G. White, clerk of the circuit court of the United States of America for the southern district of New York, in the second circuit, do hereby certify that the foregoing pages numbered from one to 1,142, inclusive, contain a true and complete transcript of the record and proceedings had in said court, in the case of John Sedgwick, as special receiver, &c., appellee, against The United States Trust Company of New York, as executor and trustee, &c., &c., appellants, as the same remain of record and on file in said office.

In testimony whereof I have caused the seal of the said court to be hereunto affixed at the city of New York, in the southern district of New York, in the second circuit, this eleventh day of October, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the said United States the one hundredth.

[SEAL.] KENNETH G. WHITE, *Clerk.*

(Indorsement on cover:) No. 217. The United States Trust Company of New York, as executor and trustee under the last will & testament of Mary Ann Sparkman, deceased, appellant, vs. John Sedgwick, as special receiver, &c. S. New York C. C. U. S. Filed 15th October, 1875.

7 Otto 73 ox
Oct. 1. 1877

United States Supreme Court,

No. 217.

THE UNITED STATES TRUST COMPANY OF NEW YORK, AS EXECUTOR AND TRUSTEE UNDER THE LAST WILL AND TESTAMENT OF MARY ANN SPARKMAN, DECEASED,

Appellant,

vs.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &c.,

Appellee.

PHILADELPHIA ASSOCIATION

Assignments of Error and Brief

FOR APPELLANT.

EDGAR S. VAN WINKLE,

Counsel for Appellant.

NEW YORK:
John Polhemus, Printer, 102 Nassau Street.

1878.

U. S. Supreme Court.

THE UNITED STATES TRUST COMPANY OF NEW YORK as Executor and Trustee under the Last Will and Testament of MARY ANN SPARKMAN, deceased,

Appellant,

vs.

JOHN SEDGWICK as Special Receiver, &c.,

Appellee.

No. 217.
Appellant's Brief on Appeal.

PART I.

Abstract or Statement of the Case.

On the 30th of November, 1865, James D. Sparkman had been, for about eleven years, a special partner in the firm of J. K. & E. B. Place (p. 226, fol. 392). This house had done a very large, prosperous, and in every respect honorable business in teas, sugars, and other groceries, at Nos. 132 and 134 Front street, in the city of New York (p. 524), and at the time mentioned each of the three members of this partnership, namely, J. K. Place, E. B. Place, and James D. Sparkman, had acquired a handsome fortune, amounting in the aggregate to

considerably more than a million dollars (p. 527, fol. 897). Though the partnership by its terms had about a year yet to exist (p. 39, fol. 64), E. B. Place, being satisfied with the amount of wealth which he had amassed, concluded to retire from the business (p. 216, fol. 376). On the 30th of November, 1865, the firm was dissolved by mutual consent (p. 217, fol. 378; p. 524, fol. 893; p. 526, fol. 895), and on the next day, the 1st of December, 1865, J. K. Place and James D. Sparkman formed the partnership of J. K. Place & Co., for the purpose of buying the stock (p. 218, fol. 379), and continuing the account books of the other firm and carrying on the business at the old stand and in the same manner as it had previously been carried on (p. 217-8, fol. 378; p. 526, fol. 895; p. 41, pp. 55-6), with the one exception that instead of E. B. Place, who had retired, James D. Sparkman, a gentleman of somewhat larger means, was taken into the firm as a general partner.

This change in Mr. Sparkman's relations with the firm was not instigated by himself, nor was it made as a matter of speculation on his part; but, on the other hand, on account of E. B. Place's withdrawal and at the special request of J. K. Place Mr. Sparkman assumed the regular and ordinary responsibilities of a general partner, with an agreement at the same time that his proportion of the profits and losses should remain just the same as before, to wit, one fourth (p. 524, fol. 893; p. 55, fol. 87), and that he should not be required to take any active part in the management of the new concern (p. 238.)

"I did not take any active part in the business of "the firm of James K. Place & Co. at any time; "it was understood when I became a general part- "ner that I would not be required to take any active "part: James K. Place managed the business of "the firm wholly."

"Q. How much of your time did you spend at "the office?"

"A. I was at the office almost every day, I think; "only for a few minutes; sometimes a half hour;

"I did not on these occasions make any examina-
"tion into its affairs; I did not at any time know
"about its affairs from any knowledge of my
"own." (p. 229.)

"Q. 7. What part did you take in the busi-
"ness?"

"A. I took no part, sir; it was understood that
"I would be special partner practically; that I
"was to take no part in the concern; it was
"thought it would benefit the concern by my
"being a general partner; I had always been
"special partner, but I told Mr. Place that it must
"be understood that I took no active part in the
"business" (p. 230.)

"At the time of the forming of the general part-
"nership there was no change made in my interest
"in the concern."

Upon the settlement of the accounts and after providing for the payment of all the liabilities of the old firm as the same should become due (p. 362) it was found that there was a balance of $227,301.62 standing to the credit of James K. Place, a balance of $168,529.96 to the credit of E. B. Place, and a balance of $262,719.48 to the credit of James D. Sparkman (p. 41, fol. 67; p. 254; p. 362, fol. 607.) These figures were not fictitious, nor did they represent simply a surplus on paper, but on the contrary they were arrived at after a careful inventory of the stock and an exact adjustment of the accounts, in view of the fact that two of the partners were to purchase and pay for the stock at its ascertained value, and in view of the fact that the retiring partner was actually to draw out of the concern in cash, as he subsequently did, the amount of his share. These balances furthermore, even in the light of future events with reference to fluctuations in values and with reference to debts which were never collected, proved to be substantially correct, as we shall hereafter see.

By the terms of the new partnership agreement James D. Sparkman was to receive one-fourth of the

future profits and was to be liable for one-fourth of the losses, while James K. Place was to receive three-fourths of the profits and to be liable for three-fourths of the losses (p. 55, fol. 87). To make the amount of capital contributed by each partner correspond to this proportion, it was stipulated in the articles of copartnership that $600,000 should be contributed by Mr. Place, while Mr. Sparkman should put in $200,000 (p. 55, fol. 86). It was, however, at the same time understood and agreed between the two partners that Mr. Place should at the outset, for his share of capital, simply transfer to the new firm his interest in the old, namely, $227,301.62, but should from his share of the future profits of the business gradually increase that amount to $600,000, meanwhile paying interest upon the deficit (p. 528, p. 548–549, p. 559, fol. 940, p. 531). This arrangement was not calculated in any way to deceive creditors or any one, for the copartnership agreement and the books of account were subject to the inspection of the partners and the bookkeepers only (p. 543, p. 545, top), and the partners intended to do no larger business than could be safely carried on with the amount of capital actually advanced (p. 528). In point of fact, Mr. Sparkman transferred to the new firm the entire amount standing to his credit on the books of J. K. & E. B. Place, namely, $262,719.48, though this was about $63,000 in excess of what was required by the articles of copartnership (p. 55), and for more than a year thereafter the amount standing to his credit on the books of J. K. Place & Co. was greater than $200,000 (see report of committee, p. 420).

It is also worthy of notice that the retiring partner, E. B. Place, did not at this time withdraw the large balance due to him, as he was at liberty to do, but left the same with perfect confidence in the hands of the new firm (p. 216, fol. 375–6, p. 219, fol. 381). On the 1st of July, 1866, there was still a balance in his favor of $107,430.60, and on the 1st

of January, 1867, this amount had only been reduced to $78,053.88 (p. 420).

The capital thus actually furnished by James K. Place and James D. Sparkman for the partnership of J. K. Place & Co. was at the outset $227,301.62+ $262,719.48, amounting to the large sum of nearly half a million dollars. The new firm took possession of the assets and proceeded to collect the debts due to their predecessors, ninety-eight per cent. of which debts they were successful in recovering (p. 526). The liabilities of the old firm, amounting in the aggregate to a million dollars or more (p. 536, p. 550, top line p. 555), were all paid, in full by J. K. Place & Co. as the same became due (p. 526, p. 218, fol. 379) within between sixty and ninety days after the 1st of December, 1865, with the exception of two debts due for money deposited by A. S. Anderson & Co. and Rensselaer Ten Broeck amounting in the aggregate to $33,000 which J. K. Place & Co. promptly offered to pay upon the dissolution of the old firm and for the payment of which ample and abundant provision was made, but which sums of money Anderson and Ten Broeck, of their own choice after notice preferred to leave on deposit with the house of J. K. Place & Co. (p. 526, p. 528, fol. 898, p. 529, p. 559). Both of these debts were subsequently paid in full by E. B. Place, so that no one of the then existing creditors of J. K. and E. B. Place or of J. K. Place & Co. is interested in the present action (p. 526, p. 557).

The new house was at first very prosperous and did a very handsome business until the Summer of 1866 (p. 233, fol. 404); but in the latter part of 1866 they lost heavily and in the course of the following year, namely 1867, owing, among other causes, to a revulsion in prices (p. 232, fol. 402) and to the embarrassements of the Place Sugar Refinery (p. 532, p. 530) and Sparkman, Place & King, in which they had bought stock (p. 306), and to which concerns they had made very heavy loans (p. 578, p. 531, p. 573, p. 577, 307) and for whose benefit they had indorsed

paper to a large amount (p. 532), they failed on the 20th of November (p. 530, fol. 900, p. 531, p. 41, bottom).

At the time of the winding up of the affairs of J. K. and E. B. Place and of the formation of the co-partnership of J. K. Place & Co., James D. Sparkman, being well advanced in years, determined to carry out a plan previously conceived by him of making a post-nuptial settlement in favor of his wife Mary Ann Sparkman. His intention was to include in the settlement $40,000 of seven-thirty and five-twenty U. S. bonds and also certain leasehold premises known as No. 27 West 42d street, upon which he had previously erected a dwelling house used as the family residence, and a stable (p. 8. fol. 15). The leasehold property, with the house, stable furniture, &c., appear by the testimony to have been worth from $40,000 to $60,000 (p. 241), and this leasehold property, as we shall see, constituted the entire settlement upon Mrs. Sparkman.

The U. S. District Court found that in point of fact, as was strenuously maintained by the counsel for Sedgwick, appelee, there was never any delivery of the bonds to Mrs. Sparkman, and that they were never included in or formed any part of the said settlement, and the bill of complaint in this suit does not mention them or purport to show any claim against them. Moreover the counsel for appellee argued that the alleged instrument assigning these bonds had never been delivered, and stated that it was produced by himself on the trial. This portion of Judge Blatchford's decision was affirmed by the Circuit Court. The leasehold premises, however, with the family residence, and the stable thereon erected, were, by means of the usual channel of a third party, duly conveyed to James K. Place, by deed dated and executed 30th November, 1865, and duly recorded 9th December, 1865 (p. 24, fol. 43), and the same premises were duly conveyed by James K. Place to Mary Ann Sparkman, by deed dated and executed 1st De-

cember, 1865, and duly recorded 9th December, 1865 (pp. 25-6). Mrs. Sparkman was in actual possession of the said premises from that time until her death, which occurred in October, 1866 (p. 79, fol. 121, p. 9, fol. 17).

At the time of this settlement by Mr. Sparkman upon his wife, Mr. Sparkman's personal liabilities, exclusive of certain bonds amply secured by real estate, were less than $10,000, which consisted of three or four deposits left with him as with a banker, while he not only owned his interest in the grocery business, which, as has been stated, was worth $262,719.48., and for which interest, if he had then retired from the firm, he could have drawn in actual money that sum, but he also owned other property, which was estimated by him to be worth considerably over $200,000, and which, though it was to a certain extent lost by subsequent investments, was then undoubtedly worth that amount.

The attention of this Court may as well, thus early in the discussion, be directed to two important and controlling features of the case at bar, by which it is clearly distinguished from the somewhat similar case of Sedgwick, as assignee against the executors of Susan A. Place, wife of James K. Place, and against others, in which latter case this Honorable Court has recently seen fit to declare null and void as against creditors, a post-nuptial settlement made or attempted to be made by James K. Place in favor of his wife, Susan A. Place, but has at the same time denied that the assignee had the right to abandon the pursuit of the specific property settled, and recover a money judgment against Mrs. Place or her executors, for the proceeds thereof.

First.—In order to make a settlement upon his wife, Mr. Place on the one hand bought a lot of land and proceeded to build thereon an expensive house which was not completed until September of the following year (p. 529), when the prosperity of J. K. Place & Co. had already received a check and for

the payment of which including the house and land large sums of money to the amount of more than $100,000 were drawn out of the firm from time to time down to the latter part of the year 1867 (pp. 257–9), after very extensive losses had been sustained and when the financial affairs of the house were involved in very serious and ominous complications on the very eve of their bankruptcy. The Court held that all these payments were parts of one transaction, and that in determining the validity of such settlement we must look at the time when the money was actually withdrawn by Mr. Place from his business. If, in other words, the provision for his wife's benefit was unreasonable in the latter part of 1866 when the liability for the last payment was incurred by Mr. Place, then the whole transaction must be stamped as fraudulent (see opinion in that case).

On the other hand in the case at bar we find that the settlement upon Mrs. Sparkman was consummated and finished upon the 9th of December, 1865, at which date the deed or assignment from James K. Place to Mary Ann Sparkman giving notice to all the world of the transfer of title and possession, was duly recorded in the office of the ~~Clerk~~ Register of the City and County of New York. After the filing of this deed for record, the house having been already built and furnished, nothing remained to be done to supplement or complete the transaction. If upon the 9th December, 1865, such settlement was reasonable and lawful, it could not subsequently either in law or in equity be impeached or invalidated.

Second.—It appeared on the one hand that, at the time of the proposed settlement, Mr. Place's entire property consisted of his interest in the firm of J. K. Place & Co., amounting to $227,301.62 (p. 528 middle, p. 41, p. 540, fol. 914). It appeared also and was held by this Court that Mr. Place had by the articles of copartnership and by the oral understanding between the parties incurred a money ob-

ligation to furnish in all as his share of capital the sum of $600,000 (p. 55). In view of this state of facts, in view of this moneyed obligation, the Court held that it was unreasonable and fraudulent in Mr. Place to withdraw more than one-third of his business capital, in fact nearly half of his entire property, and put it at the disposal of his wife and family, and beyond the reach of his creditors. (See opinion of Justice Miller in the case of Sedgwick *vs.* Place, U. S. Supreme Court, October term, 1876.)

Mr. Sparkman, on the other hand, transferred to his wife a specific piece of real property belonging to his private estate, which property it has been conceded by the counsel for the appellee, was not invested in his business in any way, and which constituted no part of the firm assets. No interference with any fund of money, and no outlay of expense was requisite to carry out this plan. The property was Mr. Sparkman's, to give away or to throw away, as he chose. Moreover, the transfer was of such a nature that, by virtue of the recording acts, all parties interested had public notice of the conveyance. In addition to the specific property thus conveyed to his wife, Mr. Sparkman had furnished and now owned, the required amount of capital which he had agreed to advance for the use of J. K. Place & Co., and there was also standing to his credit on the books of the firm the further sum of $60,000 and upwards, which he was at liberty to draw upon and which he did subsequently draw upon.

Besides this, and over and above all his debts and obligations, he claimed to be worth some $250,000 in various kinds of property, the nature and value of which will be discussed below at some length (p. 527, fol. 897; p. 236, p. 8, fol. 15; p. 15, fol. 27).

A very significant comparison might be made in detail between the condition and assets of Mr. Place and those of Mr. Sparkman, from 1865 down to the time of the failure in November, 1867, but this must be very briefly indicated.

In the first place Mr. Sparkman at the time of the

settlement had no interest whatever in the only two items counted among the firm assets, which the Circuit Court has specifically mentioned as of questionable value, viz.: the Fifth avenue property, $10,000, and the Place & Turlay investment of $60,000 (p. 614, fol. 1033). The Fifth avenue property belonged exclusively and entirely to Mr. Place as his private property, and simply appeared in the firm books of account because for convenience all Mr. Place's private accounts were kept in that way (p. 531, p. 524, p. 542, p. 543, p. 544, p. 545). It was part of the property which Mr. Place furnished toward his share of the capital, and if he subsequently disposed of it, it should simply be deducted from the amount of capital advanced by him, thus diminishing his balance without affecting Mr. Sparkman's (same pages). This same view was very properly taken and urged by the learned counsel for the complainant in the Place suit.

So also with regard to the $60,000 invested in Place & Turlay, $30,000 belonged to E. B. Place, and $30,000 to J. K. Place (p. 540, p. 541-2-3, p. 977, fol. 965, p. 578, fol. 968), and Mr. Sparkman had nothing whatever to do with it until subsequently, in April, 1866, when he bought out E. B. Place's interest, (p. 532, fols. 902-3, p. 222, bottom). Mr. Place says, distinctly, at the bottom of page 540, "The account at page 800 of the ledger headed 'Place & Turley Special, No. 2,' represents money drawn out by myself and E. B. Place, and invested for our own benefit;" and again, on page 542, he says that the $60,000 was invested as special capital in Place & Turlay, and that it was a private investment for his own benefit, and that if it had been deducted from his share of capital in J. K. Place & Co., that capital would have been reduced to about $197,000. So also, on page 577, folio 965, and page 578, folio 68.

An explanation of this matter is briefly as follows:

J. K. Place and E. B. Place both were interested in the spice concern of Place & Turlay, previous to

the formation of J. K. Place & Co. (p. 529). This concern was wound up in November, 1865, or thereabouts (p. 541, p. 532), after a very prosperous career, and from it J. K. and E. B. Place found that they had realized $60,000 in cash, in return for the $15,000 originally invested (p. 529, fol. 899; p. 587, fol. 979; p. 588, top). With this money it was determined to build and carry on a sugar refinery, known in the account books as Place & Turlay No. 2. This plan was formed by Mr. Turlay about the time of the formation of J. K. Place & Co. (p. 529, p. 530), but the building was not erected until some time in the latter part of 1866. This concern was afterwards incorporated in 1867, and became the Place sugar refinery, in which J. K. Place & Co. lost heavily in 1867. Mr. Turlay believed that the money thus furnished would be sufficient for the purpose (p. 529, fol. 899), but long after this it was ascertained that a much greater outlay was necessary (p. 532), and in 1867, J. K. Place & Co., by indorsements, became liable to a large amount (p. 530, p. 532). At the time of the marriage settlement, Mr. Sparkman had no interest, and had incurred no liability in connection with the Place & Turlay sugar refinery. The note with which Mr. Sparkman paid Mr. Place, was ante-dated 1st Dec., 1865, so that the transaction might be entered as of that date, for convenience in computing interest, and adjusting the accounts as between J. K. Place, E. B. Place, and Mr. Sparkman (p. 532). It may be added, that at this time E. B. Place and J. K. Place, had incurred no liability in connection with Place & Turlay No. 2. The Mr. Place, a general partner of that firm, was Charles Place. J. K. Place was a special partner, and had advanced to the concern the sum of $30,000, for which amount the firm of *Place & Turlay owed him.* The liability of J. K. Place & Co. was incurred many months after this, when Place & Turlay became a corporation for refining sugar (p. 532, p. 530), for which J. K. Place & Co. made loans and indorsements, and in which

they took stock for the payment of the indebtedness to them (p. 306).

Again, the attention of the Court is directed to the Report of the creditors' committee (p. 418, *et seq.*), which gives the balances from the account books in a convenient shape for reference. The committee evidently did not understand why the books credited Mr. Place with $600,000 capital, and entered a corresponding debit, the reason for which we have already explained. It will be seen, that according to the account books, on the 31st of Dec., 1866, Mr. Place was actually *indebted* to the firm in the amount of $77,964.21 (p. 419), besides the $600,000 capital, while Mr. Sparkman had to his *credit*, on that same date, after subtracting his share of the losses, $159,288.65, including the entire surplus of the concern (p. 420; also see testimony, p. 367, fol. 614, p. 289). (The creditors' committee in balancing the books, considered one or two items of profit and loss as belonging to 1867, which the firm bookkeeper counted in for 1866. This made a slight difference in their respective results.)

On the 31st of Dec., 1867, Mr. Place was indebted to the firm in the amount of $392,186.91 (p. 420), while on the same day, which was after the failure of the firm, Mr. Sparkman was credited with $59,-144.94 (p. 420). This too, was exclusive of the $40,-000 U. S. bonds, for which the complainant has recovered judgment.

It appears, also, that Mr. Place had the sole management of the concern. Mr. Sparkman expressly stipulated that he should not, and in fact did not, take any active part in the business (p. 229). He did not examine the books (p. 234). During a large part of 1866, he was engrossed with the care of a sick wife (p. 238). He was not aware that Mr. Place was attempting to free the Fifth avenue property and the 43d street property from the claims of the firm, and remove them from the firm's assets (pp. 234-5). He did not know on the 15th May, 1867, of the immense indebtedness of the Place Sugar Refinery

to J. K. Place & Co. (p. 235). In 1867, he thought that his own share of capital in J. K. Place & Co., was not impaired (p. 232). Up to within a few days of the failure, he thought that the firm was going to recover from their embarrassments without suspension (p. 231).

This suit was commenced in the District Court of the United States in and for the Southern District of New York by the appellee, John Sedgwick, as special Receiver, &c., appointed by said District Court, against James T. Sparkman, individually and as executor of Mary Ann Sparkman deceased, above named, and against James D. Sparkman, husband of said Mary Ann Sparkman, and against John Q. Preble, for the purpose of declaring fraudulent and void as against the creditors of the said James D. Sparkman, a certain post-nuptial settlement made by said James D. Sparkman in favor of his said wife, Mary Ann Sparkman, and consisting of the assignment to her through the medium of a third party, to wit, James K. Place, of a certain lease for twenty-one years, made by Gloverina R. Hoffman, wife of Samuel Hoffman, to said James D. Sparkman, dated March 14th, 1863, and covering certain real property on 42d street near Fifth avenue, in the city of New York, and for the purpose of compelling said James T. Sparkman, executor of said Mary Ann Sparkman, to account to the plaintiff for the proceeds of an assignment of the said lease made after Mrs. Sparkman's death by said James T. Sparkman, as her executor, to John Q. Preble, abovenamed, for which assignment said Preble gave a bond and mortgage for $40,000, and paid in cash about $18,000.

Pending this suit the appellant, the United States Trust Company of New York, was, by order of the said District Court, appointed trustee and executor of said Mary Ann Sparkman, in place and stead of said James T. Sparkman removed.

The bill of complaint in substance alleges (fols. 1–

10) that for several years prior to December 1st, 1865, James D. Sparkman was a special partner with Ephraim B. Place and James K. Place in the firm of J. K. & E. B. Place; that that firm owed a large amount of indebtedness which was not fully paid at the time of bringing this suit, and particularly that there was an indebtedness to A. S. Anderson & Co. of $30,000, and to Rensselaer Ten Broeck of $1,000; that on December 1st, 1865, James K. Place and James D. Sparkman formed a general partnership with each other under the firm name of J. K. Place & Co., and took the assets and continued the business of J. K. & E. B. Place; that before the formation of the firm of J. K. Place & Co. James D. Sparkman owned the leasehold in question; that in contemplation of the liabilities which he was about to incur as a member of the new firm, and of the existing liabilities of the old firm, James D. Sparkman conveyed the said leasehold to James K. Place by deed dated November 9th, 1865, and recorded December 9th, 1865, and that James K. Place conveyed the said leasehold to Mrs. Sparkman by deed dated December 1st, 1865, and recorded December 9th, 1865; that each of said conveyances was voluntary and without consideration, and was made with intent to hinder, delay, and defraud both existing and subsequent creditors of James D. Sparkman; that after the making of the said assignments James D. Sparkman continued in the actual use and occupation of the premises; that Mrs. Sparkman died in October, 1866, leaving a will by which she gave the income of her property to her husband for his life, and appointed her son James T. Sparkman her executor; that the said executor conveyed the leasehold property to the defendant, John Q. Preble, for $60,000, taking Preble's bond and mortgage for $40,000 as a part of the consideration; that James D. Sparkman was adjudged bankrupt on his own petition, and that the complainant, John Sedgwick, was appointed his assignee in bankruptcy on 27th April, 1868; that prior to being adjudged bankrupt

Sparkman had made a fraudulent general assignment to Burritt & Sheffield for the benefit of his creditors; that thereupon the said assignee of Sparkman brought suit against Burritt & Sheffield to set aside said general assignment, in which suit the complainant in the present suit was appointed Receiver of all the property and rights of action purporting to be created or conveyed by said general assignment, and that as such Receiver he brings this suit to recover the proceeds of said leasehold property referred to.

The answer of the defendant, James D. Sparkman (fols. 11–23), in substance admits his special partnership with J. K. & E. B. Place prior to December 1st, 1865.

Alleges that, although at the time of the dissolution of said partnership, they owed a large indebtedness; said firm had assets and property in value and amount exceeding the whole amount of the debts and liabilities of the said firm by the sum of $600,000, and that all the debts and liabilities of said firm, except those due to Anderson & Co. and to Ten Broeck, were paid at the maturity thereof out of the assets and property of said firm, and were within six months after the dissolution of said firm fully paid and satisfied; that the two debts due to Anderson & Co. and to Ten Broeck respectively, arose from deposits of money made with the old firm, which were transferred to the new firm, together with more than enough money to discharge them, of which said creditors had notice, but that they continued such deposits with the new firm by preference, and so allowed them to remain until the failure of the new firm.

Denies that the new firm had no other capital than the assets and property of the old firm. Denies that with said property and assets said new firm assumed the debts of the old firm, or that he, said James D. Sparkman, ever became liable as a general partner of J. K. & E. B. Place.

Admits that he was the lessee of the 42d street lots before the formation of the new firm, and alleges that prior thereto, he was, and for a long time had been, possessed of ample means, and worth at least $250,000 over and above all his debts and liabilities and over and above $200,000 to be contributed by him to the capital of the new firm of James K. Place & Co.; that on and for a considerable time prior to said 1st December, 1865, his whole debts and liabilities did not exceed $10,000, exclusive of what bonds he had outstanding, not exceeding $50,000, which bonds were amply secured by mortgage on real estate.

Alleges that being well advanced in years, he was desirous of making, in favor of his wife, said Mary Ann Sparkman, a settlement of a portion of his property, and to carry out such purpose before the 1st December, 1865, having provided for paying his proportion of the capital of James K. Place & Co., which was paid in by him on the 1st December, 1865, he directed his counsel to take the proper steps to secure to his said wife from his property the sum of $100,000 or thereabouts, and that the specific items of his property intended by him at that time to be so disposed of were $40,000 of U. S. 7.30's and 5.20's, and also the said leasehold premises on which were erected a dwelling house and stable, and also the furniture, carriages, horses, etc., and that in pursuance of such desire this defendant, prior to said 1st December, 1865, conveyed by deed, dated 30th November, 1865, recorded 9th December, 1865, to James K. Place, the brother of his said wife, the said lease and leasehold premises, and said Place, by deed dated and delivered 1st December, 1865, and recorded December 9th, 1865, conveyed the same to said Mary Ann Sparkman.

Denies that the said deeds or either of them were executed in contemplation of the liabilities which he was then about to incur as a member of James K. Place & Co., or of any existing liabilities of said J. K. & E. B. Place, or to throw off from said land and

leasehold premises any liabilities for the existing losses or for losses which might thereafter happen to said defendant in business or otherwise, and that neither of them was made with intent to hinder, delay or defraud his creditors.

Denies that after the making of said deeds he continued in the actual use and occupation of the premises, and alleges that immediately after the execution of the said deeds the said Mary Ann Sparkman entered into the actual use and possession thereof, and continued in such use and occupation until her death, and since her death and until the sale thereof by her executor, the same have remained in the actual use and occupation of her personal representatives.

Admits that said Mary Ann Sparkman died 13th October, 1866, leaving her Will as stated in the bill of complaint, and that letters testamentary thereon were issued to James T. Sparkman 28th November, 1866.

Admits that said executor, in the course of administration, sold said leasehold property to John Q. Preble by deed, dated 25th October, 1868, and that Preble executed and gave back a bond and mortgage on said premises for $40,000 to said executor, as mentioned in the bill of complaint.

Denies that said deeds or said will or any of them were made in pursuance of a design to secure to him the benefit of the said leasehold premises, or to defraud any of his creditors, whether existing at that time or who should subsequently become such creditors, and denies that they were made in fraud or with intent to hinder delay or defraud all or any of such creditors.

The answer of the defendant, James T. Sparkman (fol. 24–35), was in substance exactly the same as that of the defendant, James D. Sparkman.

To these answers general replications were put in.

The cause came on to be heard before Judge Blatchford, and a decision was rendered in favor of the defendant, dismissing the bill of complaint with costs, and declaring that the assignments of the leasehold property were not fraudulent and void as against the creditors of said James D. Sparkman (p. 209 fols. 351–352).

No opinion was handed down by Judge Blatchford in this cause, but an opinion was given by him in the analogous though more comprehensive case previously commented on, which was brought by said John Sedgwick, as assignee in bankruptcy of James K. Place and John D. Sparkman against the executors of Susan A. Place, the executor of James D. Sparkman, also Phipps & Co. and others, as defendants, involving among other things the validity of a post-nuptial settlement, made by James K. Place above-named, in favor of his wife, Susan A. Place, and also involving the question whether the $40,000 U. S. bonds were actually and lawfully transferred to and settled upon Mary Ann Sparkman by her husband. (See Sedgwick *v.* Place, 5 National Bankruptcy Reg. R. 168.)

Quotations from this opinion in regard to the findings of facts affecting this cause, are here given as follows: "James K. Place, the settlor, was for several "years prior to 1st December, 1865, in a prosperous "business in the city of New York as a member of "the mercantile house of J. K. & E. B. Place, in "which he and Ephraim B. Place were the only "general partners, and James D. Sparkman was the "sole special partner. The copartnership had by its "terms, on the 30th November, 1865, some "time yet to run. In the Summer of 1865, James "K. Place, being at the time prosperous in business "and free from embarrassment and abundantly sol-"vent, determined to make a settlement on his wife "of a house for a residence. * * * *

"On the 30th November, 1865, the firm of J. K. "& E. B. Place was dissolved by the mutual con-"sent of its general and special partners. E. B.

"Place retired from business, and James K. Place "and James D. Sparkman formed as general part- "ners on the 1st December, 1865, a copartnership "under the firm name of J. K. Place & Co., for the "purpose of continuing the business of J. K. & E. "B. Place. The firm of J. K. & E. B. Place had "been prosperous. At its dissolution, November "30th, 1865, its accounts were adjusted after being "stated, and the balance of the assets, after allow- "ing for the payment of its debts, was divided "among the members of the firm by carrying to the "credit of each member his proper share. Such "share of James K. Place was on that day "$227,301.62; and such share of James D. Spark- "man was $262,719.45. These sums in the shape in "which they were so credited, being in the shape of "assets of J. K. & E. B. Place, were put by James "K. Place and James D. Sparkman as capital into the "new firm of J. K. Place & Co., and amounted to "more than $490,000. J. K. Place & Co. took as "purchasers the stock of goods which J. K. & E. "B. Place had on hand, and continued the same de- "scription of business at the same store. J. K. "Place & Co. collected the receivables of J. K. & E. "B. Place, and with the proceeds liquidated the "debts due by J. K. & E. B. Place. Such debts "amounted to over $3,800,000. All of them except "debts to the amount of some $30,000 to $35,000 "were paid within from 60 to 90 days after the 30th "November, 1865, J. K. Place & Co. having col- "lected about ninety-eight per cent. of the debts "due to J. K. & E. B. Place. There is no evidence "that, at the time of forming the new firm of J. K. "Place & Co., 1st December, 1865, James K. Place "had any intention of doing anything else in respect "to his own future business or the business "of such new firm except to continue the pros- "perous business which the old firm of J. K. & E. "B. Place enjoyed, or to embark in any hazardous "enterprises or speculations; and there is no evi- "dence to show that he had any reason to suppose

"that the new firm would not be as successful as "the old firm had proved itself to be. The business "of the firm of J. K. Place & Co., was, at first, very "profitable. During the year 1866, and after April "or May in that year, it sustained some losses, but "its losses were not ascertained until December 31st, "1866, when they amounted, up to that time, to about "$175,000. The business of the firm went on, how-"ever, and it did not fail until 20th November, 1867, "although by May, 1867, there was reason to think "it would become insolvent.

"I cannot regard the investment in the house, and "lease, and in the furniture, as an investment of the "funds of the partnership for account of the part-"nership. * * * * This was, to all intents and "purposes, an individual account of Place's, kept "in that shape for the sake of convenience. All "of his private accounts, with few exceptions, were "kept in the same way in the books of the firm.

"Within the principles settled in the case before "referred to, James K. Place was solvent, and pecu-"niarily in a condition to make the settlement he "made. It was not unreasonable in amount, and "after he made it he still had abundant property left "to pay the debts which he owed. * * * "On all the evidence * * * I see no "evidence of any intent on the part of Mr. "Place to defraud his then existing creditors or to "divest himself of his property and embark in a new "and hazardous business and defraud subsequent "creditors. The case is not at all like the cases of "Savage *v.* Murphy, 34, N. Y., 508, and Case *v.* "Phelps, 39 N. Y., 164, so strongly relied on by "the plaintiff. In the former case the Court found "that the settlor stripped himself of the title to all "his property by transfer to his wife and children "without any visible change of possession and with "the intent to contract and continue a future in-"debtedness in his business on the credit of his ap-"parent ownership of the property transferred. In "Case *v.* Phelps the deed of conveyance was not put

"upon record. There was no apparent change of "ownership and the creditor trusted him in the "belief that he still owned the premises. The "evidence in the present case is very voluminous. "The discussions of the case have been thorough "and exhaustive both orally and on paper. I have "bestowed upon its consideration much care and "time. I consented to a reargument of the case as "respected the Fifth avenue property and the fur- "niture, because of the large amount involved, of the "importance of the principles and questions raised "and debated, and of the apparent apprehension of "the part of the plaintiff's counsel that he had not "at the first hearing presented the case to the Court "in the light in which it ought to have been and "might have been presented. I have considered "fully all the views presented by the plaintiff's coun- "sel in all his briefs, and if I have confined what "I have hereinbefore said to the salient and promi- "nent features of the case, it is not because I have "failed to pass upon every view urged on the part "of the plaintiff, but because there are certain con- "trolling features which, under the law, as I under- "stand it, must govern the disposition of the case, "and because a detailed discussion of every point "of law and fact urged on the part of the plaintiff "would swell this opinion to an undesirable length. "The result I have arrived at is one which I am "thoroughly satisfied is correct."

In regard to the $40,000 of United States bonds, his Honor Judge Blatchford held that, as there was no evidence in the case that the bonds had ever been transferred or delivered to Mrs. Sparkman, in reality they constituted no part of the settlement. During Mrs. Sparkman's life they were used by the firm as firm property, and they appeared by the account books up to the time of the failure to belong to the firm assets. After Mrs. Sparkman's death her executor claimed to be the owner.

The United States Circuit Court, on appeal,

lating to transactions in gold, and to trial balances and bookkeeping, is exceedingly confusing and difficult to be understood by those who are not versed in such matters, but when rightly apprehended and understood, the evidence, so far at least as it relates to the issues in this action, is in the main free from contradiction. The principal witnesses for the complainant, namely, E. B. Place, James K. Place, James D. Sparkman, his son, and their bookkeepers, Mr. Burritt and Mr. Morgan, were at the same time the principal witnesses for the defendants. A large part of the testimony was based directly upon the firm's books of account, the correctness of which, after the most thorough and protracted examination by a creditors' committee of experts, and by learned counsel for hostile parties, has never been in one jot or one tittle impeached.

(See testimony of James K. Place, pp. 535-536.)

"Q. 203. Were the books of J. K. & E. B. Place, "and of J. K. Place & Co. correctly kept, and by "what method of bookkeeping?

"A. They were kept by double entry by com- "petent bookkeepers, and were correctly kept, as "much so as any other books.

"Q. 204. How with reference to their correctness "having been impeached to any extent, by the criti- "cism of three years since the failure?

"A. It has failed so far as I know."

(See also p. 43, and the whole course of the testimony.)

It seems to us also that in the particulars to which allusion will now be made, the learned Judge misapprehended the true force and bearing of the evidence. In the first place it is but fair to remark that his Honor was under the impression that he was upholding the decree of Judge Blatchford in regard to the 42d street property, and owing to this mistake a decree of affirmance was at first actually filed in the Circuit Court as appears on its records.

In the opinion, as given on p. 616 of the case, occur the following words which have been stricken out of the same opinion as printed in the reports (S. C. 10 N. B. R. 28).

"I have no difficulty in *concurring with the* "*Court below* in vacating these transfers to Mrs. "Sparkman by her husband, and declaring the title "to be in the plaintiff, and that Mrs. Sparkman's "Executors must account to the assignee. *The de-* "*cree on this point is affirmed.*"

It was further stated by the Circuit Court (S. C. 10 N. B. R., p. 36), that "during the year 1866 the "firm lost $175,000 in the single item of gold." This nowhere appears from the testimony. On the other hand the uncontradicted evidence is that the last-mentioned sum included the losses from all causes during the first thirteen months of the existence of J. K. Place & Co. (p. 533 of the case).

"Q. 154. What amount in round numbers did the "firm of J. K. Place & Co. lose the first thirteen "months of its existence?

"A. About a hundred and seventy-five thousand "dollars ($175,000).

"Q. 155. Does it appear upon the books of the "concern to have lost that?

"A. It appears upon the books of the concern "to have lost more than that.

"Q. 156. How much more?

"A. About $25,000 more; but there was a con- "siderable error where we overpaid W. F. Weld & "Co., in Boston, which was afterwards discovered "and corrected.

"Q. 157. How much was that error?

"A. About $11,000, gold.

"Q. 158. Any other corrections?

"A. Then there were profits upon some goods "that had already been bought at that time, and "were afterwards realized upon.

"Q. 159. That $11,000 in gold amounted to how "much in currency in round numbers?

"A. About fifteen thousand dollars.

"Q. 160. And the profits on those goods that were "afterwards realized, amounted to how much?

"A. The profits on the goods afterwards realized "amounted to considerable more than the differ- "ence; but then there were some things went "against that, so that it was about $175,000.

"Q. 161. That was the actual loss of the concern "during the first thirteen months of its existence?

"A. Yes, sir.

"Q. 162. Can you refer that loss to any particu- "lar period of that thirteen months, or was it dis- "tributed over the whole thirteen months generally?

"A. It was chiefly in the latter part of 1866." (See to the same effect p. 559, fol. 940.)

By the books the exact amount of loss from all causes for the entire year 1866, was $205,276.71 (p. 283 of the case), which as we have seen, and as the books themselves subsequently showed, should be diminished by about $25,000; Mr. Sparkman's share of this $175,000 loss was one-fourth, or less than $44,- 000; his share, as entered at the time in the books, was $51,016.90, which ought to be proportionately diminished. (See profit and loss account for 1866 p. 282 of the case.)

All but a small fraction of these losses for the year 1866 were occasioned by transactions in gold, which, however, were of a prudential and anti-speculative character as is shown by the testimony of James K. Place (p. 536 of the case).

"Q. 206. How came you to have so large a gold- "account on your books?

"A. We bought our goods for gold, and sold a "great many of them for gold.

"Q. 207. Did your house carry a large amount "of gold at the time they were in business?

"A. Yes; we calculated to carry as much borrow- "ed gold as we had stock on hand.

"Q. 208. Why did you do that?

A. Because we sold for gold sometimes and some-
"times for currency. When we sold for currency
"we bought gold; when we sold for gold we
"didn't buy gold, we sold gold. So that our busi-
"ness was designed all the time to be kept on a
"gold basis, and to be maintained as a strictly mer-
"cantile business. The object in borrowing gold
"instead of buying it was so that we might not be
"speculating in gold. If we sold a lot of goods to
"a party for currency we based it upon the price of
"gold at the time; and the legitimate way for us to
"do was to immediately buy the gold that the cur-
"rency would buy, which was our practice—on the
"day when we sold goods for currency we bought
"the amount of gold that the currency would buy.

"Q. 208½. And this method of procedure made
"your profits the legitimate fruits of merchandise?

"A. This method of procedure made our profits
"the legitimate fruits of merchandise and enabled
"us to avoid—as we desired to avoid—speculating
"in gold.

"Q. 209. How did that system work—advanta-
"geously or otherwise?

"A. It worked admirably a while, until the large
"proportion of the merchants got into it, and then
"the brokers took advantage of the fact of so many
"wanting to borrow gold, to charge them for lend-
"ing that gold. The merchants put up currency on
"the gold and were compelled to pay interest and a
"great deal more besides; because it ran from 1-16th
"of one per cent a day to half of one per cent a
"day—the charge made against them; and in that
"way the merchants were out of pocket; we were
"out of pocket a large amount of money—lost a
"great deal in that way—by being compelled to
"pay for borrowing gold. If we had bought the
"gold instead of borrowing it, we would have
"been subject to the fluctuations of the gold-
"market all the time and it would have been
"speculating. Carrying our goods on a gold
"basis—which was our legitimate business as we

"bought all our goods for gold—we were com-
"pelled to borrow the gold and pay these large
"charges that the brokers sometimes made.

"Q. 210. I understand you to say, then, that for
"a while the system worked in your favor and then
"turned against you?

"A. Yes; in our favor for a year and then turned
"against us." * * * * *

"Q. 211. It ultimately cost you, before you failed,
"how much to carry your gold?

"A. It cost us in 1866, $150,000; just that extra
"charge. The bulk of our losses were mostly in
"that way in 1866."

(See also testimony of J. K. Place, p. 532.)

"Q. 150. Did you speculate in gold?
"A. No.
"Q. 151. Did Mr. Sparkman?
"A. He did not.
"Q. 152. Nor the firm?
"A. Nor the firm."

(See also testimony of Lewis W. Burritt, Jr., one of the bookkeepers, p. 291.)

"Q. 261. Then does it not represent the difference
"between the gold value of the merchandise and its
"currency value?

"A. Let me explain: Take a bale of goods
"amounting to $10,000 in gold; as, for instance,
"when they sold that coffee, we will say they sold
"it for currency; they would have, say $15,000 of
"currency that they received for the coffee, and
"they would owe the man that they bought it of in
"gold; the plan was that when that coffee was sold
"for currency an equivalent amount of gold was
"bought in, and the premium that was paid was
"charged in here to this 'premium on gold ac-
"count,' and the gold was held on hand as so much
"cash; if there was any other transaction where
"they bought goods payable in currency, they sold
"gold so as to reduce that currency to the gold

"basis; that was the reason that this account was "kept * * * *."

These gold transactions, which do not seem to have been clearly apprehended, may be briefly explained as follows: The merchants found that prices of staple articles of merchandise, for example, groceries, rose and fell with the rise and fall of gold, so that to avoid speculation, it was exceedingly desirable, especially in a large wholesale business where credits were given, and just at the close of the war when currency was greatly depressed and uncertain in value, to reduce anything to a gold basis. This was done by J. K. Place & Co., while at the same time the books of account were kept on a currency basis. When the firm bought merchandise which was to be paid for in gold, say three months thereafter, they immediately purchased the required amount of gold with which, of course, they would be able to pay the debt at the end of the three months, whatever might happen meanwhile to the market. If they had waited until the expiration of the three months before purchasing the gold, more currency or less currency might have been required to make the purchase. When they bought merchandise which was to be paid for in currency (this seldom occurred) three months thereafter, they immediately sold gold, that is, purchased the required amount of currency with which, of course, they would be able to pay the indebtedness when it became due, whatever fluctuations meanwhile the currency might have undergone.

In the same way, when they sold merchandise for which they were to be paid in gold three months thereafter, inasmuch as the gold price of the goods was estimated upon the present value of gold, they immediately borrowed from a broker the amount of gold to be received at the expiration of the three months, and with the gold so borrowed, they at once purchased currency, which currency of course would be the legitimate, or rather the estimated price of the goods. At the end of the three months

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"charges that the brokers sometimes made.

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the gold then received from the customer was paid over to the broker, which amount of gold would just cancel the indebtedness to him, exclusive of the interest, which was at a fixed and certain rate. The broker, in other words, and not the merchant, did the speculating. When the firm sold merchandise for which they were to be paid in currency three months thereafter, they immediately took that amount of currency and purchased gold at its then present value.

Any inferences from the gold transactions just explained to the effect that the firm of J. K. Place & Co. carried on a business in any respect speculative, are unwarranted and most unjust.

Again, the Court below say (p. 615, fol. 1037, S.C., 10 N. B. R.):

"It is alleged and conceded in the briefs of the "counsel respectively on this question, that the "firm of J. K. & E. B. Place owed $3,480,000. "Their assets on paper were $4,500,000."

The learned counsel for the complainant had a great deal to say about this large amount of liabilities and these uncertain assets, and this "surplus on paper" at the time of the formation of the firm of J. K. Place & Co. On this point Judge Blatchford himself, by not apprehending the nature of the trial balance for November 30, 1865, was misled into his only erroneous finding of fact, viz., that J. K. & and E. B. Place owed $3,840,000.

A trial balance, as appears from the testimony, is a mere transcript of the balances of the accounts in the ledger, and does not indicate the amount of the assets and debts respectively, its object being simply to test the accuracy of the bookkeepers figures.

A number of different accounts might in reality be transactions of various kinds with the same party, and if the sum of the debits equaled the sum of the credits there would be no indebtedness.

On examining the trial balance on p. 56, it will be

seen that opposite the same name, *e. g.*, Grinnell, Minturn & Co., p. 57, there is a large amount debited, viz., $178,000, and a still larger sum, viz., $195,000 credited to the *same account*. Just above, on the same page, we find Muller & Brown credited with $150,000 and debited with $224,350; and further above, J. A. Robinson appears to be credited with $150,000, and the *same person* to be debited with $221,981.25, and so on with other entries. There are three different accounts with the Manufacturers's Bank (p. 56). The large item of $563,294.29 (p. 57) was declared in the testimony not to represent a liability of the firm, but was a mere bookkeeper's entry (p. 539) or nominal account (p. 291).

If A owed the firm $10,000 and the firm owed A $9,000, it would not be right to say that the firm had incurred liabilities for $9,000, and had uncertain assets on paper amounting to $10,000, which perhaps were worth nothing, and yet such was the argument of the counsel for the complainant, though directly in the face of the uncontradicted testimony. In the supposed case, "the assets on paper," amounting to $10,000, due from A would be, at all events, good for canceling the debt of $9,000 due to A, and as to the $1,000 "surplus on paper," the best and fairest test of its value would be the estimate put upon it at the time by competent experts whose interest it was to arrive at a correct result.

(Testimony of Lewis W. Burritt, Jr., one of the bookkeepers, pp. 251-2.)

"Q. 19. What does a trial balance usually em-
"brace?

"A. It embraces the sums standing to the debit
"and credit of accounts that are opened at the time
"the trial balance is taken off.

* * * * * * * *

"Q. 26. What preliminary steps were taken for
"the purpose of making the trial balance?

"A. There was a balance struck in pencil to
"either the debit or credit of an account as it

"might be, and then the sums to the debit or credit "to this account were drawn off in a form of this "one, 'Nov. 30, 1865, stock of goods on hand;' or "an inventory was taken of the stock of goods on "hand; then the sum totals of the debits and "credits were added up, and if the books were cor- "rect the sum totals of the debits and the sum "totals of the credits would be exactly the same.

"Q. 27. Now, as you find that that trial balance "contains the amount of merchandise on hand, can "you say whether there is any asset of J. K. & E. B. "Place not appearing on that trial balance?"

"A. I don't think of any now; still there might "be something in the form of stocks or assurance "security or something of that kind."

* * * * * * * *

"Q. 30. What was the aggregate of the assets of "J. K. & E. B. Place, Nov. 30, 1865?

"A. The aggregate amounts to the *credit* of the "different accounts was $4,509,094.65, and the aggregate *debits* was the same.

(Place testimony, p. 586).

"Q. 423. And the trial balance consists of tran- "scripts from the ledger, does it not?

"A. It consists of balances from the ledger.

"Q. 424. Were the assets in the left-hand column "of figures and the debts in the right-hand column?

"A. The *debits* are in the left-hand column and "the *credits* in the right-hand column. I should "not call them assets because it does not show "strictly the assets.

* * * * * * * *

"Q. 426. What is the purpose?

"A. It is to ascertain the correctness of the fig- "ures on the ledger.

* * * * * * * *

"A. A trial balance may be taken off to show the "balances on the books without having anything on "it to show the condition of the concern * * *

"it is not intended to show the condition of the "concern.

(p. 553).

"Q. 148. Why did you say the trial balance was "nonsense?

"A. Because it is not designed to show the state "of the ledger; it is designed to show the correct- "ness of the bookkeeper's figures.

* * * * * * * *

(p. 554).

"Q. 163. Didn't you believe that the balances "were correctly transcribed into the trial balance?

"A. Yes, but it don't show anything.

"Q. 164. Is the trial balance now before you?

"A. It is headed 'Trial Balance;' yes, it appears "to be it; I see the item 'A. S. Anderson, Buffalo, "N. Y.,' with the figures $25,000 in the right-hand "column; it conveys the idea to my mind that "there is a balance on that account of $25,000 to his "credit; but there may be another account on the "general ledger which would show a debit against "him; I would not place any reliance on that item "at all.

"Q. 166. Will you state from the trial balance of "J. K. & E. B. Place the indebtedness of J. K. & E. "B. Place on 1st December, 1865?

"A. I am not sure that I could state by the trial "balance what the indebtedness was.

"Q. 167. Do you mean to say that the trial bal- "ance does not show?

"A. The trial balance is not intended to show; it "may show.

(p. 555).

"Q. 177. I ask you now to state from any means "within your power the indebtedness of J. K. & E. "B. Place the 1st of December, 1865?

"A. I think it was about $1,000,000.

(p. 549).

"Q. 97. Are you unable to state what the indebt-
"edness of J. K. & E. B. Place was?

"A. I will say that it was about $1,000,000.

"Q. 98. Can't you state nearer than that?

"A. No; not just now.

"Q. 99. Won't your books show?

"A. They will in various accounts and entries on the books."

* * * * * * * *

"Q. 104. Do you know of any debt of J. K. & E. Place that does not appear there?

"A. I have not looked to see.

Q. 105. "Do you believe there are any?

"A. Oh, yes; I think very likely there are. * * "The trial balance is intended to show the correct-
"ness or incorrectness of the figures on the books. " * * It is a mere check on the posting of the books."

(Testimony of bookkeeper, p. 362, bottom.)

"Q. 9. State what at that time was the aggregate indebtedness of the concern?

"A. I can't do it; * * it has got to be fig-
"ured up. This covers things that are really not "debts."

Again the Court below say (p. 614) as was urged by the counsel for complainant in speaking of the value of the stock on hand the 30th November, 1865, which was $1,474,623.44 (see trial balance, p. 57 and evidence, p. 218). "The merchandise was "valued, it is said, by adding to the currency val-
"uation the premium of 48 per cent. for gold, while "gold fell to 33 by the end of the year 1866."

This statement seems to have been made to the Court for the purpose of persuading it that the stock on hand at the time of the formation of the firm of J. K. Place & Co., was not worth the amount at which it was estimated and at which it was put down on the account books. Such an argument

may be plausible, but the conclusion is palpably fallacious.

1. In the first place gold was worth 1.48 at the time when the estimate was made, viz., 30th November, 1865, and that was the proper and only basis upon which to make the calculation. The stock, if then put upon the market, would have brought that price. There was no more reason for estimating upon a basis of 1.33, because gold might subsequently fall to 1.33, than there was for estimating it upon a basis of 1.60, because gold might subsequently rise to 1.60.

2. The system of doing business upon a gold basis, as has been previously explained, prevented to a great extent either loss or gain in case of fluctuations in the gold market, except to the gold brokers, who assumed the risk as a matter of speculation.

3. A sufficient and decisive answer to this insinuation of the learned counsel for complainant, is that in point of fact, as is shown by the evidence, the stock on hand 30th November, 1865, was not kept until the latter part of the year 1866, but was promptly sold out, probably within at least sixty days, *and at a profit*. The account books show all the losses of the firm down to the failure. The losses for 1866 from all causes, exclusive of the $150,000 paid to brokers for "shaves," was about $25,000, and these losses occurred during the latter part of that year.

The attention of the Court is directed to certain clerical mistakes in dates.

(Testimony of J. K. Place on cross-examination, p. 576):

"Q. 334. How much depreciation in 1867 (error "for 1866) occurred on the goods which you valued "at $1,474,000 on the 30th November, 1865." (See trial balance for 1865, p. 57, near bottom.)

"A. There was no depreciation, but a profit." (No claim was made that the business was profitable in 1867.)

"Q. 335. On all?

"A. Yes.

"Q. 336. On goods bought in 1867 (1866)?

"A. We sold ten times as many goods in 1867 " (1866) as the inventory marked on the first of that " year.

"Q. 337. And are you quite certain that there " was not any depreciation whatever on the goods " you had on hand on the 31st December, 1866 " (1865)?

"A. I think not, because we made a profit for " several months after the first of the year, and there " was nothing, that I remember, of there being any " loss on. We probably did a very handsome busi- " ness up to the Summer of 1867 (1866)."

(Also see Mr. Sparkman's testimony, p. 233, bottom of the page):

"At the beginning of the partnership of J. K. " Place & Co., in the early part of the year, the " business was very profitable, and I understood " that the concern had been making money up to a " certain date, say April or May, 1866."

Though the evidence does not indicate exactly when the stock on hand 30th November, 1865, was disposed of, yet the testimony is uncontradicted that many times the amount of merchandise inventoried on 30th November, 1865, at upwards of $1,474,000, was sold during the year 1866, and that up to about the Summer of that year the firm did a large business at a handsome profit.

It must not be inferred that the assets of J. K. Place & Co. the 1st December, 1865, consisted wholly of the stock of merchandise and the debts due to them: but we find also that they had on hand in their banks an actual cash balance of the large amount of $121,844.23 in currency, and $15,026.89 in gold when gold was at a premium of 48, making

an aggregate of about $150,000 of cash on hand (p. 63, p. 41, p. 250, p. 558). We find also the very substantial items of U. S. 7 3-10 bonds $94,243.45 (p. 58, middle), U. S. compound int. notes, $3,500 (p. 58, middle), U. S. certificate indebtedness $55,041.96 (p. 59, bottom), real estate, Front street, $120,089, which last item Mr. Place intimates was, perhaps, much more valuable than this estimated amount (p. 561). These items alone, of extraordinary security, when added together, reach the enormous sum of from $420,000 to $500,000. Certainly this showing does not indicate that the firm of J. K. Place & Co. were depending entirely upon the realization of debts due to them. What more than this can reasonably be demanded? If all the firm property had been invested in U. S. bonds and kept secure from mercantile risk there would have been no further trade in groceries, and the business must have been at once closed.

Again, it is stated by the Court below, in the opinion as originally given and as printed in the case (p. 614, fol. 1,034), "The result of the business "was that at the end of the first third of the year "1866 the condition of the firm was greatly altered "for the worse." In the same opinion, as printed in the reports, See 10, N. B. R. 35, the sentence just quoted has been changed to read: "The result "of the business was that at the end of the year "1866," &c., instead of "at the end of the *first* "*third* of the year 1866," &c.

It may not be inappropriate at this point in the argument to reiterate the statement that the condition of the firm subsequent to December, 1865, has no bearing whatever upon the issues in this action, except so far as it may furnish a clue to the motives and intentions of Mr. Sparkman, whether actually fraudulent or otherwise, at the time of the settlement in 1865.

Again, the Court below say (p. 615, fol. 1,037),

"Mr. Sparkman continued to occupy the premises "as a residence until October, 1868." Mrs. Sparkman, it should have been added, occupied the said premises from the time of the settlement upon her until her death (p. 9, fol. 17).

The Court below say (p. 615, fol. 1037). "The "statements heretofore made respecting the affairs "of James K. Place bear upon the present point, and "the principles of law there stated are also applicable to it." We have already alluded to the marked differences of fact between the Place and Sparkman settlements, and we shall further show hereafter that the loss of $250,000 or $300,000 in the Place sugar refinery, and the loss of $230,000 in the cork business of Sparkman, Place & King, which, together with losses on merchandise and the $150,000 paid to the brokers for "shares" on gold, and the $100,000 withdrawn for the Place marriage settlement, constituted the important items of loss sustained by J. K. Place & Co., that in fact all their losses, occurred subsequent to and long after the settlement made by Mr. Sparkman, and that neither of those two enterprises of Sparkman, Place & King, or the Place Sugar Refinery, had been initiated at the time of the Sparkman settlement.

The Court below say (p. 615, fol. 1,037):

"At the time of the dissolution of the firm of J. "K. & E. B. Place, Sparkman was indebted indi- "vidually in about the amount of $20,000."

On the other hand, there is no evidence in the case to show that Mr. Sparkman's individual indebtedness in December, 1865, was even as great as $10,000, the extreme limit fixed by the answer (p. 8. fol. 15).

The only unsecured claims against him at the date of the failure in 1867, the liability for which was incurred prior to December, 1865, are $1,500 loaned or deposited by John W. Buckmaster in the Summer of 1865, $1,050 loaned or deposited by N. E. H. Wade in the Summer of 1865, and $2,500 loaned or

deposited by A. C. Lee in the Summer of 1865, amounting in the aggregate to $5,050 (see inventory p. 242, *et seq.*); and it appears by the uncontradicted testimony on p. 247 of the case that John W. Buckmaster probably was subsequently paid in full and that Mrs. Wade received all but $200 of her claim.

As to the nature of the transaction with A. C. Lee, the testimony is a follows (p. 247.):

"Q. 87. Has A. C. Lee been paid?

"A. Not that I know of, unless you have paid "her.

"Q. 88. When did you give her a note, if ever?

"A. I suppose at the time. She had been leaving "money with me for a series of years; I had no "other transaction with her than receiving her "money and giving her a note."

The Court below say (p. 615, fol. 1037):

"Sparkman, Place & King, no longer existed," that is in November, 1867, in reality they continued nearly two years longer, and failed in the year 1869 (bottom of p. 577 and p. 531, fol. 901).

The Court below say, speaking of Mr. Sparkman (p. 615, fol. 1037):

"The conveyance in question to his wife and the "alleged transfer of the Government bonds were "made to his wife while she was quite ill; and her "will was immediately made, giving" &c., "and she "died in June, 1866."

There is no testimony whatever in the case proving that Mrs. Sparkman was ill at the time of the transfer of the leasehold property to her on 1st December, 1865, and the idea does not seem to have occurred to any one during the examination of the witnesses that a charge of fraud on the part of Mr. Sparkman would be seriously urged on such grounds.

Testimony of Jas. D. Sparkman, (p. 283, fol. 413):

"During the year 1866, I was unable to give much "attention to my business affairs; my wife was "taken ill with cancer and I had to devote myself "pretty much the whole year to her. * * * "She died in October—the first of October, I think "it was—1866."

Testimony of James T. Sparkman (p. 79, fol. 121):

"Q. 2. Was your mother living in October and "November, 1867?

"No, sir."

* * * * * * * * * * *

"Q. 4. When did she die?

"A. In October, 1866."

* * * * * * * * * * *

"Q. 6. How long had she been ill?

'A. She had been seriously ill about six or eight months.

"Q. 7. How long prior to her death had hopes of her recovery been abandoned?

"A. I don't know.

"Q. 8. Who attended her?

"A. Dr. Parker, Dr. Sabine, Dr. Watts, Sr., and Dr. Peasley."

The exact date of Mrs. Sparkman's death was the 13th October, 1866. See answer of Jas. D. Sparkman (p. 10, fol. 17), and answer of Jas. T. Sparkman (p. 16, fol. 29).

If we count back eight months from this time, the longest period named by the last-mentioned witness, it brings us to February, 1866, about three months after the assignment of the 42d street property to Mr. Place, and the reassignment of the same to Mrs. Sparkman were executed. Upon this testimony, which is the only testimony in the case bearing upon the question, it surely cannot be argued that Mr. Sparkman knew that his wife was seriously ill when the settlement was made. We meet the

accusation with a denial. If the learned and ingenious counsel for the complainant had not been satisfied with the evidence as it stood, he might have cross-examined further upon this point or called to the stand one of the four physicians named, all of whom reside in the city of New York. It appears then that Mrs. Sparkman died in October, and not in June of the year 1866. Her will was not immediately made after the alleged transfer, but was executed on the 20th July, 1866. (See answers, p. 10, fol. 17, and p. 16, fol. 29, and the will itself, p. 26, fol. 46.)

For reasons already advanced and to be further enforced, exception is taken to the following statements of facts in the opinion of the Court below as grounded upon misapprehension (p. 616).

"He incurs a new indebtedness of several millions "of dollars by his general partnership;" *rather it should be said of about one million of dollars, for which J. K. Place and E. B. Place were also liable, and for which careful and ample provision had been made, as was evident at the time, and as the result proved.* "He unites in a sugar-refining speculation;" *rather it should be said his first connection with the sugar business was in April*, 1866, *when he bought out E. B. Place, and became a special partner in the concern of Place & Turlay, No. 2.* "He carries on a boot and shoe business;" *rather it should be said that by* 1867 *he had generously made a loan of* $15,000 *to a relative who was engaged in the boot and shoe business* (p. 236.) "He carries on a large and embarrassed cork factory," *viz., Sparkman, Place & King, which was not initiated until 2d April*, 1867 (p. 63, p. 239, p. 194–5, p. 240, p. 101, p. 171, p. 162–3, p. 54, *bottom*, p. 73, p. 531), *or if allusion was made to Sparkman Place & Co., which on the 2d April*, 1867, *was succeeded by the corporation of Sparkman, Place & King, the former concern was not organized until 10th January*, 1867 (p. 386, p. 239, p. 238, *bottom*, p. 96.) "He was in very "deep water; his enterprises were in fact unsonnd,

"and all of them came to disastrous ends;" *rather it should have been said that besides his connection with J. K. Place & Co., which enterprise was still in the foreground, he had incurred no business risks or obligations whatever, except as a general partner in Sparkman, Truslow & Co., which never sustained any reverses.* "At the moment of em-"barking in the most hazardous of these enter-"prises, he sets aside $100,000 for his wife." *The "true amount should be from* $40,000 to $60,000. "The wife then has a fatal sickness upon her, "from which she soon dies." *This should read: The wife subsequently had a fatal sickness upon her.*

It is respectfully submitted that the very vigorous and impressive assertions of the zealous counsel for complainant, which were adopted by the Court below, in its brief opinion with reference to the 42d street lots, are not warranted or substantiated by the evidence itself.

From the decree of the Circuit Court, Phipps & Co. and the executors of Susan A. Place respectively appealed to this Court, where it was lately held that, while the settlement upon Mrs. Place was void as against creditors, the plaintiff could not abandon the pursuit of the specific property and take a money judgment against the wife or her executors for the amount of the proceeds of such property. (See opinion of Justice Miller in Sedgwick *v.* Place.)

And now in the case at bar, The United States Trust Company of New York as executor and trustee as aforesaid, appeals to this Court from the final decree of the Circuit Court, and assigns errors as follows:

PART II.

Assignment of Errors.

I—The Court below erred in that determination or direction of the final decree whereby the defendant, The United States Trust Company of New York, as executor of and trustee under the last Will and Testament of Mary Ann Sparkman, was ordered to attend before Kenneth G. White, Esq., the Master named in the decree of June 16, 1874, as they might be required by his order or summons, and execute and deliver to the plaintiff or his solicitor the assignment referred to in said decree, being a proposed form of assignment (p. 631) of the bond and mortgage made by John Q. Preble and mentioned in the bill of complaint; whereas the Court below should have held that the plaintiff had no right, title or interest to or in the said bond and mortgage, or any assignment thereof (p. 634).

II—The Court below also erred in that determination or direction of the final decree, whereby the defendant, The United States Trust Company, of New York, as executor, &c., as aforesaid, was ordered to deliver to the plaintiff or his solicitor, at the same time, the bond and mortgage and note mentioned in the report of said Master, being the said bond and mortgage made by John Q. Preble, and a note of Sparkman, Place & King payable to James T. Sparkman, executor, (pp. 618, 619); whereas, the said Court should have held that the said plaintiff never had any right, title or interest in or to the said bond and mortgage or to the said note (p. 634).

III—The Court below also erred in that determination or direction of the final decree whereby the defendant, The United States Trust Company of New York, as executor, &c., as aforesaid, was

ordered to pay to the said Master the sum of fifty dollars for his fees, and to the plaintiff or his solicitor, the sum of twelve thousand eight hundred and eight dollars and eighty-nine cents, being the balance of cash with which the said, The United States Trust Company of New York, as Receiver, was chargeable; whereas the said Court should have ordered the said plaintiff to pay to the said Master the said sum of fifty dollars for his fees, and should have held that the said plaintiff or his solicitor had no right or claim to or upon the said sum of twelve thousand eight hundred and eight dollars and eighty-nine cents, or any part thereof (pp. 634, 635).

IV—The Court below also erred in that conclusion and determination of the final decree, whereby it was ordered and adjudged, that the plaintiff should recover of the said defendant, The United States Trust Company of New York, as executor, &c., as aforesaid, the principal sum of twenty-eight thousand two hundred dollars and seventy-one cents, and interest thereon from the date of the said report to the date of said decree, amounting in the aggregate to the sum of twenty-eight thousand three hundred and four dollars and eighty-nine cents, to be levied and collected of the goods, chattels and credits which were of the said Mary Ann Sparkman, deceased; whereas the said Court should have held that the said plaintiff had no right or claim to or upon the said last mentioned sum or any part thereof, and should also have held that the said plaintiff had no right to take a money judgment for the last mentioned amount or any part thereof against the defendant, the United States Trust Company of New York, as such executor or otherwise (p. 635).

V—The Court below also erred in that determination or direction of the final decree, whereby the defendants to the said action other than the defendant, John Q. Preble, were perpetually restrained and enjoined from collecting and receiving anything

on said note or accounts, or any of the moneys due or to accrue on the said bond and mortgage for principal or interest, and whereby the defendant, John Q. Preble, was perpetually restrained and enjoined from paying any portion of the amount due or to grow due on the said bond and mortgage for principal or interest to any person other than the plaintiff, his successors in office or assigns, except that in case of an appeal being duly taken from their decree and security given so as to effect a *supersedeas*, he might pay the amount from time to time growing due or becoming payable on said bond and mortgage to said Receiver until such appeal should have been disposed of according to law; whereas the said Court should not have granted the said injunction in any particular or any provision thereof (p. 635).

PART III.

Brief of the Argument.

First Point.

The answer of James D. Sparkman, and also the answer of James T. Sparkman, are responsive, and they contain full and sufficient denials of all averments in the bill of complaint tending to impeach the validity of the settlement in favor of Mrs. Sparkman, and unless disproved by two witnesses, or one witness and strong corroborative circumstances, the said answers must be taken as true.

In the case of Tobey *v.* Leonards (2 Wallace, 430,) it is held by the Court that "denials in answer to a "bill in equity, to the extent of their relation to "facts within the knowledge of the respondents, "when they are responsive to the allegations of the "bill of complaint, must be received as evidence. "Courts of Equity cannot decree against such de- "nials in the answer of the respondent, on the tes- "timony of a single witness; on the contrary, the "rule is universal under such circumstances, that "the complainant must have two witnesses, or "one witness and corroborative circumstances, or he "is not entitled to relief. The rule stands upon the "reason that, when a complainant calls upon the "respondent to answer allegations, he admits the "answer to be evidence; and if it is testimony in "the case it is equal to the testimony of any other "witnesses, and the complainant cannot prevail if "the balance of proof is not in his favor; he must "have circumstances in addition to his single wit- "ness, in order to turn the balance."

See also Parker *v.* Philliplace, 1 Wallace, 689.

The rule for New York State is the same. In Jackson *v.* Hart, 11 Wend., 349, Savage, Ch. J., says:

"No rule of equity proceeding is more positively "settled than that where there is a single witness "only against the oath of the defendant in his an- "swer, and the facts denied in the answer are "equally strong with those affirmed by the evidence. "There can be no decree against a defendant on "such evidence."

And Forsyth v. Clark, 3 Wendell, 643.
Dunham v. Jackson, 6 Wendell, 30.

Second Point.

The burden of proof rests upon the complainant to sustain his allegations of fraud by direct and conclusive evidence, *e. g.*, if there is no testimony whatever in the case to show that Mrs. Sparkman was ill in the month of December, 1865, the inference must not be drawn by complainants' counsel as a demonstrated fact, that inasmuch as Mrs. Sparkman was subsequently sick with a fatal malady in the Summer of the following year, she must have been dangerously ill at the time of the settlement, and that Mr. Sparkman must have been aware of that fact, and hence that fraudulent intent was evinced by him in the transfer of the leasehold premises to his wife. Until disproving facts are elicited by the evidence, we are to conclusively presume that Mrs. Sparkman in November and December, 1865, had the prospect of a long life, or at all events, that Mr. Sparkman had no knowledge to the contrary.

In the same way, the mere supposition of complainants' counsel that the stock of groceries of J. K. Place & Co., on hand 30th November, 1865, may not have been disposed of until the end of the following year, goes for nothing as an argument bearing on the issues in this suit, in the absence of any facts in evidence from which such a conclusion might be directly or indirectly inferred.

So also his suggestion that Mr. Sparkman's individual property at the time of the marriage settlement was of fluctuating or fictitious value.

See opinion of Justice Swayne in Smith *v.* Vodges, 2 Otto, 183.

Also, the opinion of the Chancelor in Frazer *v.* Western, 2 Barb., Ch., 220: "The law sanctions a "conveyance founded upon the consideration of "blood or of marriage merely. The legal presump- "tion, therefore, is that such a conveyance is valid, "and not a fraud upon the rights of any one."

Third Point.

A post-nuptial settlement in favor of a wife is valid and unimpeachable, provided, in the first place, the settlor is innocent of any wrongful intent to hinder, delay, or defraud existing or subsequent creditors, and provided, in the second place, at the time of the settlement he makes abundant provision by reserving sufficient property of substantial and certain value for the payment of all indebtedness then existing.

The Statute law in the State of New York bearing upon this subject is as follows:

"§1. Every conveyance or assignment in writing "or otherwise of any estate or interest in lands, or "in goods or things in action, or of any rents or "profits issuing therefrom, and every charge upon "lands, goods, or things in action, or upon the "rents or profits thereof, made with the intent to "hinder, delay, or defraud creditors or other per- "sons of their lawful suits, damages, forfeitures, "debts or demands, and every bond or other evi- "dence of debt given, suit commenced, decree or "judgment suffered, with the like intent as afore- "said as against the persons so hindered, delayed, "or defrauded, shall be void."

3 R. S. (6th Ed.), p. 145.

"§4. The question of fraudulent intent in all "cases arising under the provisions of this chapter "(Chap. VII.) shall be deemed a *question of fact* "*and not of law; nor shall any conveyance or* "*charge be adjudged fraudulent as against credi-* "*tors or purchasers solely on the ground that it* "*was not founded on a valuable consideration.*"

3 R. S. (6th Ed.), p. 145.

It is claimed on the part of the defendants, that no creditors whatever of Mr. Sparkman existing at the time of the marriage settlement, are interested in the present action. If there are any they are only two or three in number, and the debts due to them consist of claims for small sums of money voluntarily left on deposit with Mr. Sparkman. It cannot be said that such creditors were in any way hindered, delayed or defrauded, for they might have recovered their claims at any time if they had chosen so to do.

Lloyd *v.* Fulton, 1 Otto, 479.

It will be observed, moreover, that whatever the old rule may have been in England, in regard to existing creditors, under the Statutes of the State of New York the existence of creditors at the time does not as a conclusion of law avoid the settlement even as to such creditors.

The New York law also corresponds with the view taken by this Honorable Court, and it may now be said to be universal.

This subject is conveniently summed up by Prof. Dwight, in his Equity Lectures, prepared for the use of the Law School.

"Conveyances to defraud creditors or purchasers. "Here there are two cases:

"1 Where there was a decided intent to defraud "creditors. Here no question can arise. The bad "intent vitiates the contract so far as the creditor "is concerned, though the sale be made on sufficient "consideration.

"2. Where the effect is to defraud creditors, "though there is no evil intention. The first in- "stance of this kind is when a gift is made by a "person at the time heavily in debt. Two schools "of jurists take different views of this topic. One "treats the case as a question of law. Under this "view a person in debt though he possesses a large "property cannot make the smallest gift which "would be valid against his creditors. This class "of lawyers is represented by Chancellor Kent in "Read *v.* Livingstone, 3 Johns., Ch. 481. But their "doctrine is too high toned for practical purposes, "and the question is now treated as one of fact and "therefore for the jury, who are to determine from "the circumstances whether the donor's property "was not at the time of the gift in a condition "amply sufficient to pay his debts. (In equity it is a "question for the Judge)".

In the case of Hinde's Lessees *v.* Longworth 11 Wheaton 199, it was decided that the mere fact that a grantor who makes a deed to a child in consideration of affection is in debt to a small amount will not make such deed fraudulent as against creditors if it be shown that the grantor was in prosperous circumstances and unembarrassed; that the gift to the child was a reasonable provision according to his state and condition in life and that enough was left for the payment of the debts of the grantor.

Judge Davis in pronouncing the opinion of the Court in Babcock *v.* Eckler, 24 N. Y., 630, says: "Applying these principles to the present case I "arrive at the conclusions * * *

"2. That even if the conveyance was voluntary "it falls within the rule laid down in the case in 11 "Wheaton (Hinde's Lessees *v.* Longworth), and "which has been approved of by this Court, that "at the time it was made in November, 1855, the "grantor was in prosperous and unembarrassed cir- "cumstances, the gift * * * * was "a reasonable and proper provision for her and her

"children, the husband retaining for himself nearly "an equal amount; and it being conceded that "enough and far more than enough was retained "by him to pay off and discharge the debts which "it was subsequently ascertained that he owed, or "which at the time he might reasonably have sup- "posed he owed. If fraud could therefore be pre- "sumed, the facts and circumstances sufficiently "rebut it, and I can see no ground upon which the "arrangement and conveyance made in November, "1855, can be impeached. Subsequent indebted- "ness cannot be invoked to make that fraudulent "which was honest and free from impeachment at "the time."

See also opinion of the Court by Judge Potter in Dygert *v.* Remerschnider, 32 N. Y., 648: "I need "not cite authority that a husband or other party "who is solvent may make a voluntary transfer to, "or settlement upon, his wife and child; and that "such transfer or settlement is good against all the "world except existing creditors. Whatever may "have been the qualified rule in England, which was "substantially followed by Chancellor Kent in Read "*v.* Livingston, 3 Johns., Ch. 500, the uniform "decisions of our courts since that day have been "to sustain the proposition I have stated."

In Van Wyck *v.* Seward, 6, Paige, 62, Chancellor Walworth said: "I presume it cannot be seriously "urged that where a parent makes an advancement "to his child honestly and fairly, retaining in his "own hands at the same time property sufficient to "pay all his debts, such child will be bound to re- "refund the advancement for the benefit of credi- "tors if it afterwards happens that the parent, either "by misfortune or fraud, does not actually pay all "his debts which existed at the time of his advance- "ment."

In the Bank of U. S. *v.* Houseman, 6 Paige, 526, 534, the Chancellor says: "Since the decision of the "Court for the correction of errors, in Seward *v.* "Jackson (8 Cow., 469), the question must be con-

"sidered as settled in this State, that a voluntary "conveyance is not *per se* fraudulent, even as "against creditors to whom the grantor was indebted "at the date of the deed. But before that decision "it was well settled that a voluntary conveyance "from a person not indebted at the time, accompa- "nied with an immediate transfer of the possession "of the property to the grantee, was valid as against "subsequent creditors."

Sexton *v.* Wheaton, 8 Wheaton, 229, a leading American case upon the subject, holds that a voluntary settlement made by a man, not indebted at the time, upon his wife is valid against subsequent creditors.

See also the review of the cases bearing upon this subject by Judge Blatchford, in Sedgwick *v.* Place, 5 Nat. B. R., 168.

In Kehr *v.* Smith, 20 Wall., 31, the settlement was contested by existing creditors, and set aside by the Court because the settlement of $7,000 gold, only left the settlor assets to the amount of $9,132 to meet debts confessedly due of $9,306. His Honor Justice Davis, in the opinion says, "The "ancient rule that a voluntary post-nuptial settle- "ment can be avoided if there was some indebted- "ness existing, has been relaxed, and the rule "generally adopted in this country at the present "time will uphold it, if it be reasonable, not dispro- "portionate to the husband's means, taking into "view his debts and situation and clear of any in- "tent, actual or constructive to defraud caeditors."

In the recent case of Lloyd *v.* Fulton 1 Otto 479, Justice Swayne after commenting upon many adjudications of the American and English Courts upon this subject, sums up the law in these words: "The rule as now established is, that prior indebted- "ness is only presumption, and not conclusive proof "of fraud, and this presumption may be explained "and rebutted. Fraud is always a question of fact, "with reference to the intention of the grantor; "where there is no fraud, there is no infirmity in

"the deed. Every case depends upon its circum-
"stances and is to be carefully scrutinized. But
"the vital question is always the good faith of the
"transaction. There is no other test."

Justice Story says, in his Equity Jurisprudence, (11th Ed.), §362:

"The same subject has undergone repeated dis-
"cussions in the Supreme Court of the United
"States. The doctrine established in that Court is,
"that a voluntary conveyance made by a person
"not indebted at the time in favor of his wife or
"children, cannot be impeached by subsequent
"creditors upon the mere ground of its being
"voluntary. It must be shown to have been fraud-
"ulent or made with a view to future debts, and,
"on the other hand, the mere fact of indebtment at
"the time does not, *per se*, constitute a substantive
"ground to avoid a voluntary conveyance for
"fraud even in regard to prior creditors. The
"question whether it is fraudulent or not is to be
"ascertained, not from the mere fact of indebtment
"at the time alone, but from all the circumstances
"of the case. And if the circumstances do not es-
"tablish fraud, then the voluntary conveyance is
"deemed to be above all exception." And see also his exhaustive discussion of this whole subject, §§358–365 inclusive.

The English Courts seem to have adopted the same view.

Gale *v.* Williamson, 8 M. & W., 410.

I.

Was Mr. Sparkman guilty of actual and intentional fraud in conceiving and carrying out the plan of transferring certain property to his wife?

Happily, on this point, there can be no dispute. The evidence discloses without any contradiction or

gainsaying that in November and December, 1865, and for a long time previous, Mr. Sparkman estimated his wealth at something like half a million dollars (p. 8, and fol. 15; p. 527 fol. 897; p. 232 top and p. 236 top, show his estimate in 1867, shortly before the failure), of which he proposed to settle upon his wife one-fifth the amount (pp. 8–9, fols. 15–16).

In point of fact, only about say $50,000, one-ninth or one-tenth of his whole estate, was actually included in the settlement.

On the 1st of December, 1865, the settlor, who subsequently died at the age of seventy-two, was well advanced in years. By a long life of industry in active business pursuits he had amassed an ample fortune.

The firm of J. K. &. E. B. Place, in which he had been a special partner and from which, during the years past, he had reaped large returns, had just settled its affairs by a careful adjustment, showing a handsome surplus. That venture, at least, was secure. Persuaded by the solicitations of his partner, he generously consented without any increased share of the profits above what he had already been receiving to lend his important influence to the new concern of J. K. Place & Co., and to assume the responsibilities of a general partner in that firm. This enterprise, in the management of which practically he had not the slightest control (p. 238, middle), and of which ultimately he became the most unfortunate victim, was still in the foreground, but promised results as gratifying as those which had been realized from its predecessor. He was at this time involved in no other business risks with the exception of his connection as general partner with the firm of Sparkman, Truslow & Co. (p. 238), dealers in cork and whiting, which concern, for very many years, under the active and personal management of Mr. Sparkman, had, so far as appears by the testimony, enjoyed the most uninterrupted prosperity, and the success of which partnership con-

tinued down to the time of its dissolution on the 10th of January, 1867.

Besides these business connections, legally involving some risk, Mr. Sparkman enjoyed the honor of being president of a bank in this city, and also president of an insurance company (p. 238). His individual obligations were inconsiderable, consisting, so far as appears, of three or four small sums of money deposited with him for security as with a banker at the request and for the advantage of others.

Very naturally and very properly the time of the winding up and adjustment of the affairs of J. K. & E. B. Place, when as far as possible there would be freedom from the obligations of business, and when, if ever, the amount of his means would be exactly determined, was chosen by Mr. Sparkman as the suitable opportunity for carrying out his design.

The appropriateness of the occasion is obvious, and yet the learned counsel for complainant attempts to convert the selection by the settlor of that particular period into a badge and proof of intentional fraud. The theory that Mr. Sparkman at this time intended to embark in a new enterprise by which he would probably lose money, though apparently urged by complainant's counsel as an important feature of the case, seems to us unworthy of the serious attention of this honorable Court. It would almost seem as though the counsel for appellee imagined that Mr. Sparkman conceived the plan of throwing away his large fortune for the express purpose of cheating his creditors out of the proceeds of the small fraction thereof included in the settlement.

Mr. Sparkman at once communicated his purpose to his attorney, Mr. Wallis, an eminent and most reputable counsellor-at-law, in whose hands and to whose management the execution of this business was confided (p. 9, top, p. 233). If subsequently there had been any unjustifiable steps taken in the course of the proceedings in this matter, the charge of intentional misconduct would doubtless more properly

have been brought against the attorney than against the client.

The whole history of Mr. Sparkman's connection with J. K. Place & Co., including his conduct at and before the time of failure, repels the accusation of fraudulent intent (p. 229, p. 231).

His own estimate of his liabilities, as stated in his answer, seems to have been larger, and his own estimate of his assets therein mentioned seems to have been smaller than the corresponding amounts indicated by the testimony.

But upon this question of actual fraud the Circuit Court appears to have concurred in a measure with Judge Blatchford (see p. 612, fol. 1030). And with a quotation from the opinion of Justice Hunt, we pass on to a more serious and important question. "The law upon this question of fraud has "been elaborately argued by the respective counsel, "and numerous authorities are cited in the opinion "of the Court below. The principles to be applied "here are not difficult to discover. *There is no act "or fact in the case, that I discover, which stamps "the transaction as necessarily and absolutely "fraudulent.*"

II.

In the next place, was there any constructive fraud evinced by this settlement? Had Mr. Sparkman, over and above the property transferred by him to his wife, ample and abundant means of certain and not fictitious or fluctuating value, and at that time by him available and convertible into cash, to pay and cancel all the debts and obligations owed or incurred by him? If he had not, then the alleged settlement was at the time, and hence always will be, under the New York Statutes, a conveyance made with intent to hinder, delay and defraud his creditors. If he had, then, whatever may

have since occurred; whether the property has depreciated or increased in value; whether it has been stolen, or lost by reason of the extraordinary financial crisis following the late civil war; whether it has been burned or even recklessly invested; whether Mr. Sparkman subsequently became a miser or a spendthrift, the alleged settlement was at the time, and hence always will be, valid, unimpeachable, and such as the law respects and will protect.

Let us revert once more to the evidence to ascertain as exactly as possible the condition of James D. Sparkman's affairs in November and December, 1865, the precise amount and nature of his debts and obligations, the true value and character of his assets, then existing or incurred. We will also examine as thoroughly as the testimony will allow all the business interests with which James D. Sparkman was directly or indirectly connected at the time of the settlement, or with which he then had any prospect or intention of being connected in the future.

The most trustworthy information, as far as it goes, is to be obtained from the firm books of account, in which neither party has found any error.

1. And first let us consider the assets:

A. The most important item of these was the sum of $262,719.48, standing to his credit on the books of J. K. Place & Co. on the 30th November, 1865, the date of the formation of that firm and of the dissolution of the firm of J. K. & E. B. Place (p. 57, fol. 89; p. 41, fol. 67; p. 527, fol. 896; p. 362, fol. 607).

(*a*) How was this balance arrived at?

It was obtained by making a careful inventory and valuation of stock on hand by competent experts, and by stating and adjusting all the accounts of J. K. & E. B. Place; then, after providing for the settlement of the debts of J. K. & E. B. Place

as they should mature, the surplus was divided between the three partners, J. K. Place, E. B. Place, and James D. Sparkman, according to their respective interests, J. K. Place and E. B. Place each taking three-eighths, and James D. Sparkman the remaining two eighths (p. 524, fol. 893.) The amount thus appearing to the credit of J. K. Place was $227,301.62 (p. 41, fol. 67, p. 254, fol. 441, p. 527, fol. 896; p. 362, fol. 607). The amount appearing to the credit of E. B. Place was $328,521.82 (p. 216, fol. 375; p. 527, fol. 896), of which he left $168,529.96 on deposit with the new firm as with a bank (p. 41, fol. 67; p. 216, fol. 375-6; p. 362, fol. 607).

Testimony of E. B. Place (p. 216, fol. 375): "I left $168,000 to my credit in J. K. Place & Co., "and was to draw it as I wanted it; left it on call "to be drawn as I desired. * * The occasion "of my retiring from the firm of J. K. & E. B. Place "was I thought I had money enough."

(Page 219, fol. 381).

"The first item of cash I withdrew on account of "my interest after the 30th of November, 1865, is "$69, Dec. 2; the next, $300, same date; next, "$27.50; $48.52, $25.05 on the 4th. I drew as my "personal necessities required, very much as I would "on a bank account, and in that way I finally got "all my interest and something more, as I have "testified. If the firm of J. K. Place & Co. had "paid me on the 30th of November, 1865, in cash, "$168,529.96, the result would have been, as far as "my interest in the property was concerned, no dif-"ferent from the result which followed from my "drawing it in little installments from time to time, "except that I would not have been credited with "interest."

The amount appearing to the credit of James D. Sparkman, as we have seen, was $262,719.48.

(*b*) Was this balance appearing to the credit of

James D. Sparkman actually worth what it purported to be worth?

Of course the presumption is particularly in view of the fact that one of the partners was retiring and was to draw his share in cash, and that the remaining partners were to purchase the stock on hand as inventoried, and also in the absence of any possible motive for giving fictitious values, that the estimate and adjustment of stock and accounts was correct. Nor is there a scintilla of evidence tending to show that this estimate and adjustment were not the fairest and most exact that could possibly have been arrived at at the time when they were made. But the learned counsel for complainant argues that the assets of J. K. Place & Co. at the time of the formation of that firm, were partly made up of debts due to J. K. & E. B. Place, which had not yet matured, and that if any of these debts subsequently proved uncollectible, the total assets and hence the surplus belonging to each partner ought to have been proportionately reduced. On this point, fortunately, the books of account disclose to us exactly what the result was. Of all the indebtedness due to J. K. & E. B. Place at the time of their dissolution, involved in their immense wholesale business, ninety-eight per cent. was collected by the new firm.

(Testimony of J. K. Place, p. 526):

"Q. 43. What portion of the claims and demands
" of the firm of J. K. & E. B. Place did J. K. Place
" & Co. collect?
"A. Probably 98 per cent. of them all."

(Testimony of E. B. Place, p. 218, fol. 378):

"The $168,000 testified to already by me on the
" 2d day of December, 1865, was my interest in the
" concern of J. K. & E. B. Place. It was subject to
" contingent deductions in case of any loss on debts
" due to the concern that were collectable below
" their estimated value; such losses did occur to
" reduce the $168,000 to the extent, as near as I can

"remember, of about $8,000." (Referring to the account books): "The two items with which I am "debited under date of December 23d, 1867, one of "$4,190.55 and the other of $4,792.50, is my share "of the losses which appear to be the property of "J. K. & E. B. Place, November 30, 1865. The "nature of those items was failures to collect "debts."

The total of these two items is $8,983.05, which represents E. B. Place's share, viz., three-eighths, of all the losses accruing from bad debts due to J. K. & E. B. Place. James D. Sparkman's share of the same losses was two-eighths or one quarter, which would be the sum of $5,988.70. This is the exact amount which naturally we find debited to him as his loss from the same cause. See the two items of Nov. 20, 1867, in his private account, to wit: $2,793.70 and $3,195.00, amounting in the aggregate to $5,988.70 (p. 43, near bottom). These entries the bookkeeper, Lewis W. Burritt, Jr., testifies he believes to be correct (p. 43, near bottom).

If this subsequently ascertained loss should be subtracted from Mr. Sparkman's estimated balance, such balance would still amount to the sum of $256,730.78, which reduction would be entirely immaterial, and we may say imperceptible, as regards the issues in this suit. The District Court, however, seemed to consider it fairer to estimate the respective balances of the partners at their full nominal value, rather than to deduct these small losses subsequently ascertained, and occasioned by the non-payment of debts which, for aught that appears, may have been at the time of the settlement in reality worth their face, and may have been more than counterbalanced by unforseen appreciation in the value of real estate or other property owned by the firm.

This honorable Court also seems to have adopted the same view on the appeal in the Place suit; so far as any opinion was expressed upon this point, his Honor Justice Miller using the following words:

"The basis on which the honesty and fairness of

"the settlement is supported in argument is, that "on the first day of December, 1865, the day "on which the old partnership of J. K. Place "and E. B. Place was superseded by the firm "of J. K. Place & Co., composed of J. K. Place and "Sparkman, Mr. Place was worth $227,000. This "estimate resulted from the balance sheet of the "old firm, and that sum constituted the capital "which he put into the new firm. * * * But "upon the supposition that Mr. Place was, on the "first day of December, fairly entitled to consider "his interest in the business as worth $227,000," &c.

The suggestion of the learned counsel that the debts of J. K. & E. B. Place may have been paid by giving the notes of the new firm instead of by cash payments with the proceeds of the business is entirely without foundation in the evidence, and impossible upon its face. E. B. Place testifies that if the proceeds of the stock had not been applied by J. K. Place & Co. to the payment of the obligations of the old firm he would have heard of it (p. 218).

Again, it is argued by the learned counsel for the complainant that the assets of J. K. Place & Co., at the time of the formation of that firm, were partly made up of the stock of merchandise then on hand, which he intimates must have depreciated in value before it was sold, inasmuch as gold, which, on the 30th November, 1865, was at 1.48, before the end of the following year fell to 1.33. This argument has already in another connection been sufficiently answered. We claim that this conclusion, even if warranted, would be irrelevant to the issues; for the stock was not composed of merchandise of uncertain and fluctuating values, but, on the other hand, of staple articles of trade, which it was right and proper for the partners to inventory, and count upon with considerable confidence on the basis of their then present market values. If, owing to any extraordinary financial crisis not to be guarded against by men of discretion and prudence, the as-

sets of the firm, whether staple articles of merchandise, or real estate, or United States bonds, depreciated far below their former market value, the copartners must not be held responsible any more than for a loss occasioned by fire or robbery. When the law provides that a man before transferring property to his wife or family, in consideration of natural affection, must make ample provision for the payment of his obligations, it does not mean to declare that business prosperity must attend him to the end of his life. Nor is it the intent of the law that subsequent misfortune or subsequent folly, or even subsequent fraud on the part of the settlor, should have a retroactive and *post facto* effect to disturb a marriage settlement which was valid when made. The after conduct and the ultimate result can only be relevant as they help to furnish a clue to the present motive and intention.

But notwithstanding all the suggestions and inferences of the ingenious counsel for the complainant, the fact remains conclusive and uncontradicted that for some six months after the alleged settlement upon Mrs. Sparkman, the firm of J. K. Place & Co. did a handsome and prosperous business. If the uncertain and possible losses are to be deducted from the inventory estimate, why not add the much more certain and considerable gains?

Again, it is argued by the learned counsel, for the complainant, that certain items, outside the stock of merchandise on hand, which items were counted among the assets of the firm on the trial balance of 30th November, 1865, in reality were never, down to the time of the failure, converted into cash, and subsequently proved to be of little value. But it is submitted, that the demonstration of the counsel altogether fails to show that such items were not on the 30th November, 1865, worth their estimated value, or that they were of a fluctuating and uncertain nature, or that other items of property appearing in the same trial balance, did not subsequently

appreciate as much as these depreciated. Moreover, certain, if not all, of these questionable items of property belonged exclusively and privately to Mr. Place, were purchased with his private money, and appeared on the firm books of account simply for his convenience. Mr. Sparkman may have regarded some of them, if, indeed, he was aware of their existence, as injudicious investments. He certainly had no control over them, nor had he any interest in them, other than that possibly he knew that Mr. Place reckoned them among the assets of the firm, in order that his, Place's, share of capital might, at least, reach the sum of $227,000. Even his knowledge of this fact does not appear, for he left the active management of the business with his partner, and he says that he did not himself examine the books (pp. 229, 230, top and bottom; p. 238, middle; p. 233, fol. 464).

(Testimony of Mr. Place, p. 527).

"Q. 9. Did you purchase any leasehold property "on the corner of 47th street and Fifth avenue in the "Summer of 1865?

"A. Yes, sir.

"Q. 12. For what purpose did you purchase it?

"A. With the intention of building a house upon "it and giving it to my wife.

(p. 527).

"Q. 56. Were you on the first of December, 1865, "possessed of any other property, besides your in-"terest in the firm of J. K. & E. B. Place?

"A. Yes; I had an interest, and was a special "partner in Place & Turlay's spice concern." (This business was closed up just about that time).

(p. 531).

"Q. 131. Where was the account, if any, of that "Fifth avenue house expenditure kept?

"A. Kept in account by itself on the books of "J. K. & E. B. Place, and of J. K. Place & Com-"pany.

"Q. 132. How was the account headed?

"A. Headed 'Fifth avenue, corner of 47th street, "J. K. Place.'

"Q. 133. Were your private accounts all kept "in those books?

"A. They were.

"Q. 134. In the same manner?

"A. In the same manner.

"Q. 135. What was your custom in regard to the "method of keeping your private accounts in the "firm books?

"A. It was my custom to keep all my private ac- "counts, with very few exceptions—no exceptions "of any consequence, none but small matters—all "my private accounts with those exceptions, on the "firm books, and to keep them open until they "were closed out in some way, and then balanced by "my individual account; they were kept so as be- "ing more convenient and as being more frequently "before me, as I was often referring to the books at "the office; as I was looking over the firm books I "could see those accounts.

"Q. 136. Was Place & Turlay number one kept "so? (Spice concern.)

"Yes.

"Q. 137. Was Place & Turlay number two?

"Yes.

"Q. 138. Was the account of Michigan lands?

"A. Yes; and corn sugar stock; insurance stock, "Susquehanna Seminary, everything that I had any "interest in of any importance whatever I pre- "ferred having our bookkeeper take care of them "to taking care of them myself."

The attention of the Court is particularly directed to Mr. Place's cross-examination on pp. 541-2-3-4-5, and to the testimony of the bookkeeper on p. 253, which conclusively shows that many of these interests, there specifically enumerated, were the individual property of Mr. Place, and if their value was in reality overestimated in the inventory, which we

deny, the deficiency ought simply to be deducted from Mr. Place's individual balance.

It will be seen also upon looking through the trial balance for 1866 on pp. 44 *et seq.*, that though there were numerous accounts kept of Mr. Place's private investments none appears against James D. Sparkman, with the exception of the entry of $40,132.18 U. S. bonds on the side of the assets (p. 46, top) the sufficiency of which as security the complainants' counsel will scarcely attempt to criticise. If these suggestions of the learned counsel for the complainant are advanced for the purpose of showing that the firm of J. K. & E. B. Place was not in a prosperous condition at the time of its dissolution, and we cannot imagine with what other object they are made, it is respectfully submitted that such a conclusion is contradicted by an overwhelming weight of evidence. The enviable reputation of the concern, their excellent credit with the banks, the withdrawal of E. B. Place, satisfied with his share of the proceeds, in itself amounting to a large fortune, his immense deposit with the new firm, Mr. Sparkman's consent to assume the liability of general partner without an increased share of the profits, the large deposit made by him over and above his capital, the testimony of the firm account books themselves, not intended for public inspection and unimpeached after three years' criticism, and lastly the enormous amount of subsequent losses sustained before the firm went under, may be mentioned as among the indirect arguments in favor of the substantial prosperity of the business of J. K. Place & Co. at its commencement.

B. In regard to the exact value of Mr. Sparkman's property outside his interest in J. K. Place & Co. in the latter part of 1865, the testimony, we regret to state, as far as particulars are concerned, is exceedingly meager.

In his answer (p. 8, fol. 15) he names as a minimum the sum of $250,000, which he swears he was at that

time worth, over and above all debts and liabilities, and over and above the $200,000 of capital which he had agreed to furnish for the use of J. K. Place & Co. No doubt he really estimated his individual property at a higher value, but in the light of after developments, he was willing to swear that at least it was worth that sum. James T. Sparkman, his son, also in his answer (p. 15, fol. 27), swears to the same amount. Mr. Place also, in his testimony at the bottom of p. 527, says that Mr. Sparkman had property outside the firm to the value of the last-mentioned amount (p. 527).

"Q. 64. Do you know whether Mr. Sparkman had "at the time of the dissolution of the firm of J. K. "& E. B. Place, any other property than his inter- "est in such last-named firm?

"A. Yes; he had other property.

"Q. 65. Do you know how much?

"To the value of about $250,000, in addition to "what he had the firm of J. K. & E. B. Place."

Assuredly after this direct and cumulative testimony of three witnesses, one of whom, viz., Mr. Place, did not, throughout the trial, show himself over friendly to his copartner, the burden of proof is strongly upon the appellee to show that in reality Mr. Sparkman, in December, 1865, was not worth the large amount of individual property which his testimony would indicate. The learned counsel for the appellee, whether intentionally or unintentionally, has neglected to do this. He did not ask Mr. Sparkman, or any one, to specify the items of which the $250,000 was composed. He did not ask him to mention the amount of his income received at that time. He made no endeavor to ascertain upon what income he paid taxes for the year 1865 or 1866, but now, without having introduced a particle of testimony in rebuttal of the averments contained in the answers of Mr. Sparkman and his son, and corroborated by the assertion of Mr. Place in his testimony, though no reason presents itself for

the omission, unless it was the fear of injuring his client's cause, the learned counsel wishes us to believe that the individual property of Mr. Sparkman was for the most part fictitious and unreal.

It is true, on p. 236, we find a rough, off-hand enumeration by Mr. Sparkman of the individual property which he supposed himself to own at the time of the failure, in November, 1867, and the learned counsel for the appellee, in the absence of any other enumeration, assumes this to indicate specifically, the status of Mr. Sparkman in December, 1865. Such an assumption can very easily be shown to be incorrect.

The first item is $145,000, invested in the Cork & Whiting American Mills Co. This was another name for one of the two cork concerns, which were not organized until 1867. Skipping two items, we come to $10,000 or $12,000 of Corn Exchange Fire Insurance Co. stock. A portion of this, at least, must have been bought on the 18th July, 1867 (p. 43). The store in Pearl street, which he estimates at $35,000, he owned, the testimony shows, before the settlement upon his wife; but the stable in 43d street, which was entirely disconnected with the 42d street premises, was built in 1866 and 1867 (p. 534, p. 567.) So also the Union Sugar stock appears to have been purchased the 31st December, 1866 (p. 42). These references will suffice to show how unreliable and worthless the above casual inventory must be in affording any standard by which to measure the value of Mr. Sparkman's individual assets in December, 1865. We submit that the appellee has absolutely and utterly failed to prove that Mr. Sparkman was not fairly worth at least the sum of $200,000 on 1st of December, 1865, over and above the sum of $262,719.48 standing to his credit in J. K. Place & Co., and over and above all his debts and liabilities.

2. In the second place, let us consider all the financial interests in which Mr. Sparkman was in any

way involved on or about the 1st of December, 1865.

His connection with J. K. Place & Co., has been elaborately described. Besides this, he occupied the position of a general partner in the firm of Sparkman, Truslow & Co. (p. 238), with which for very many years he had been actively connected, and which, in view of all the schedules of debts and books of account, and in view of all the evidence, we may affirm had been and was, until its dissolution a short time after this, uniformly prosperous. He was also president of a bank, president of an insurance company, and interested as special partner to the amount of $20,000 with Taylor & Young (p. 238, p. 236), but he had not, so far as appears, incurred in any way any business risk or hazard in connection with these three last mentioned interests. At most he could only lose the $20,000 contributed by him to Taylor & Young. We will, however, suppose the worst to have happened, and deduct the $20,000 as a worthless asset from his individual property, or if it is preferred we will reduce his balance on the books of J. K. Place & Co. to the sum of $242,719.48.

Mr. Sparkman still appears to have been peculiarly in a position to make the alleged marriage settlement upon his wife. In view of his long and successful experience in business, his advanced years, his accumulated capital, his large individual assets, the adjustment of the affairs of the only concern in which he was heavily involved, the large surplus just estimated to his credit in that concern, was it an unusual business risk, or was it a constructive fraud upon existing or possible creditors, for the settlor, in addition to his connection with the old cork concern of Sparkman, Truslow & Co., to accept the position of general partner in the safe and prosperous business of J. K. Place & Co., in which formerly he had at stake, as special partner, the sum of $50,000 (p. 39, fol. 64)? We claim that it was not. For the law in determining the validity of a marriage settlement,

to make a distinction in favor of those who can afford to invest their entire estate in United States or State securities, or in well-secured bonds and mortgages, would be unjust to the great majority of citizens. To give preference to those who have withdrawn their capital from the really productive industries of the country, would be unwise and against public policy. The question at issue in the case at bar seems to be, whether a man who has incurred the possible liability of a general partner in a safe and prosperous mercantile business, can ever, under the most favorable circumstances, make a provision for his wife by means of a marriage settlement, in consideration of natural affection.

The learned counsel for complainant persuaded the Court below that Mr. Sparkman was not in a position to transfer the leasehold property in question to his wife by ante-dating the subsequent disasters which occurred in the year 1867, and by culling from the vast bulk of testimony now and then some casual and inadvertent statement as to time. Speaking of the financial crisis of 1867, this Court in Smith *v.* Vodges (2 Otto, 185) uses the following language: "In the early part of 1867 there "was a marked reflux in the tide of prosperity "throughout the country. It swept many of those "exposed to it into hopeless insolvency." And to adopt the view of the Court in Lloyd *v.* Fulton (1 1 Otto, 479), "the non-payment and the inability to "pay are the results not of fraud but of accident and "misfortune."

We have already in another connection clearly showed by numerous references to the testimony and the account books that Mr. Sparkman had nothing whatever to do with Place & Turlay No. 2, the sugar concern, until April, 1866, when he bought out E. B. Place's interest (p. 532, p. 222, bottom). The testimony on this point and the entries in the books of account are unmistakable. Place & Turlay No. 2 was succeeded, as we have seen, in the early part of 1867 by the

Place Sugar Refinery, a corporation for which J. K. Place & Co. made heavy loans and indorsements in the early part of 1867, and in which, as a payment for this indebtedness, they took some $133,000 of stock, which was entered in the books as belonging half to Mr. Place and half to Mr. Sparkman. But, as we have seen, this was all Mr. Place's doings, and Mr. Sparkman knew nothing about it (p. 235, fol. 408, p. 306). The loans also, for which the stock was given in payment, and the indorsements, as we have seen, were all made in the early part of 1867 (p. 532). The only other two concerns in connection with which J. K. Place & Co., sustained losses, were Sparkman, Place & Co., and its successor, the corporation of Sparkman, Place & King, which, it is conceded, were both organized in 1867, and in connection with which J. K. Place & Co., and Mr. Sparkman incurred no liability until that year. James D. Sparkman had several relatives who, it seems, were successful in obtaining from him an advance of capital for their mercantile ventures. These subsequent investments in 1867 were, doubtless, more generous than judicious, as the issue proved, but they cannot be connected in any way with Mr. Sparkman's position on the 1st December, 1865. The books of account and testimony are conclusive upon this point, as we have heretofore shown by abundant references to the evidence.

3. The individual debts of Mr. Sparkman have been previously enumerated.

Fourth Point.

The complainant cannot abandon the pursuit of the specific property transferred to Mrs. Sparkman and take a money decree against herself or her exe-

cutors for the proceeds, even assuming that the settlement was void as against her husband's creditors.

See opinion of this Court in Sedgwick *v.* Place October, 1876.

"In reference to the decree for the payment of "money against the executors of Mrs. Place on ac- "count of the Forty-third street lots, we are of a "different opinion. * * * * * *

"But we are of opinion that Mrs. Place, if living "could not be subjected to such a decree if all that "is said be true, nor can her executors be now.

"While the books of reports are full of cases in "which the real or personal property conveyed to "the wife in fraud of the husband's creditors has "been pursued, and when identified in her hands, "or in the hands of voluntary grantees or purchas- "ers with notice, we are not aware of any well con- "sidered case of authority where the pursuit of the "property has been abandoned and a judgment *in* "*personam* for its value taken against the wife.

"Certainly no such doctrine is sanctioned by the "common law, and though the present suit is a bill "in Chancery, the decree in this case is nothing more "than a judgment at law, and could as well have "been maintained in a separate suit at law for the "money as in this suit. And the liability of the "executors of the wife to this personal judgment "must depend on the same principle as if abandon- "ing the pursuit of the *res*, the assignee had "brought an action at law for the money" * * *

"While the Statutes of New York have recog- "nized certain rights of the wife to deal with and "contract in reference to her separate property, "they fall far short of establishing the principle "that out of that separate property she can be "made liable for money or property received at her "husband's hands which in equity ought to have "gone to pay his debts. * * * * * Such a "proposition would be a very unjust one to the "wife, still under the dominion, control and per-

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"In reference to the decree for the payment of "money against the executors of Mrs. Place on ac- "count of the Forty-third street lots, we are of a "different opinion. * * * * * *

"But we are of opinion that Mrs. Place, if living "could not be subjected to such a decree if all that "is said be true, nor can her executors be now.

"While the books of reports are full of cases in "which the real or personal property conveyed to "the wife in fraud of the husband's creditors has "been pursued, and when identified in her hands, "or in the hands of voluntary grantees or purchas- "ers with notice, we are not aware of any well con- "sidered case of authority where the pursuit of the "property has been abandoned and a judgment *in* "*personam* for its value taken against the wife.

"Certainly no such doctrine is sanctioned by the "common law, and though the present suit is a bill "in Chancery, the decree in this case is nothing more "than a judgment at law, and could as well have "been maintained in a separate suit at law for the "money as in this suit. And the liability of the "executors of the wife to this personal judgment "must depend on the same principle as if abandon- "ing the pursuit of the *res*, the assignee had "brought an action at law for the money" * * *

"While the Statutes of New York have recog- "nized certain rights of the wife to deal with and "contract in reference to her separate property, "they fall far short of establishing the principle "that out of that separate property she can be "made liable for money or property received at her "husband's hands which in equity ought to have "gone to pay his debts. * * * * * Such a "proposition would be a very unjust one to the "wife, still under the dominion, control and per-

"sonal influence of the husband. In receiving fa-
"vors at his hands, which she supposed to be offer-
"ings of affection or proper provision for her com-
"fort, she would be subjecting that which was her
"own or which might afterwards come to her from
"other sources, to unknown and unsuspected
"charges, of the amount and nature of which, she
"would be wholly ignorant. It answers the de-
"mands of justice in such cases if the creditor,
"finding the property itself in her hands or in the
"hands of one holding it with notice, appropriates
"it to pay his debt. But if it is beyond his reach,
"the wife should no more be made liable for it than
"if the husband himself had spent it in support
"of his family, or even of his own extravagance."

See also Shuttleworth *v.* Winter, 55 N. Y. 631.

It will be remembered that after the decease of Mrs. Sparkman, the leasehold premises, together with some other property, were sold to the defendant John Q. Preble, for $20,000 cash, and his bond and mortgage for $40,000, the leasehold premises alone realizing about $58,000 in all on this sale (p. 248, fol. 432; p. 249, pp. 31–2–3–4). The decree of the Court below directed an assignment of this bond and mortgage to the complainant, and gave to him a money judgment for the balance of the proceeds of the property included in the settlement upon Mrs. Sparkman (decree pp. 634–5).

Fifth Point.

The decree of the Circuit Court should be reversed with costs to the appellant.

EDGAR S. VAN WINKLE,
Counsel for Appellant.

BRIEF FOR APPELLEE.

SUPREME COURT OF THE UNITED STATES.

No. 247.

PHILADELPHIA BAR ASSOCIATION

THE UNITED STATES TRUST COMPANY, EXECUTOR, &c.
APPELLANT,

vs.

JOHN SEDGWICK, AS SPECIAL RECEIVER, APPELLEE.

F. N. BANGS, OF COUNSEL FOR APPELLEE.

OCTOBER TERM, 1877.

BRIEF FOR APPELLEE.

SUPREME COURT OF THE UNITED STATES.

No. 217.

PHILADELPHIA BAR ASSOCIATION

THE UNITED STATES TRUST COMPANY, EXECUTOR, &c.
APPELLANT,

vs.

JOHN SEDGWICK, AS SPECIAL RECEIVER, APPELLEE.

F. N. BANGS, OF COUNSEL FOR APPELLEE.

OCTOBER TERM, 1877.

IN THE

SUPREME COURT OF THE UNITED STATES

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vs.

JOHN SEDGWICK, AS SPECIAL RECEIVER, &c., APPELLEE.

Statement of Case for Appellee.

The appellee, plaintiff below, was appointed on April 22, 1868 (*p.* 203, *fol.* 342, *Exhibit* 25, and *p.* 204, *Exhibit* 27), to be assignee in bankruptcy of James K. Place and James D. Sparkman, who had been partners under the firm name of J. K. Place & Co.

As such partners they had, on December 23, 1867 (*p.* 53, *Exhibit* 15), made a voluntary assignment for the benefit of their creditors to Lewis W. Burritt, Jr., and Thomas T. Sheffield.

There is a statute in force in the State of New York, entitled "An act to declare and extend the powers of executors, assignees, receivers and other trustees, and to protect the rights of creditors and others against frauds and for other purposes" (*Laws of* 1858, *Chap.* 314, *p.* 506).

This statute provides as follows: "Sec. 1. Any executor, administrator, receiver, assignee, or other trustee of an estate, or the property and effects of an insolvent estate, corporation, association, partnership or individual may, for the benefit of creditors or others interested in the estate or property so held in trust, disaffirm, treat as void, and resist, all acts done, transfers and agreements made, in fraud of the rights of any creditor, including themselves and others, interested in any estate or property held by, or of right belonging to, any such trustee or estate.

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estate, property or effects of any deceased person, or insolvent corporation, association, partnership or individual, shall be liable in the proper action to the executors, administrators, receivers, or other trustees of such estate or property, for the same, or the value of any property or effects so received or taken, and for all damages caused by such acts to any such trust estate."

Married women are not exempted from the liability created by this statute.

By virtue of this act, Burritt and Sheffield claimed to be vested with the title to and the right to recover whatever property their assignors had conveyed in fraud of creditors (*fols.* 7, 32).

The plaintiff, by virtue of his appointment as assignee in bankruptcy, made the same claim, and he also brought suit in the District Court of the United States for the Southern District of New York, to set aside the assignment to Burritt and Sheffield, as fraudulent as against him under sec. 14 of the Bankruptcy Act of 1867. In that suit he was himself appointed to be receiver of the property assigned to Burritt and Sheffield and of "all such rights of action, claims, and demands as, under color or by the words of said assignment or otherwise, purported or appeared, or purport or appear to have been transferred or conveyed to or vested in said Burritt and Sheffield, under and by virtue of" the above quoted law of New York (*fols* 7, 8, 32, 33, *and pp.* 205 *to* 208, *Exhibits* 28, 29).

The plaintiff, as such receiver, thus represents the rights of Burritt and Sheffield, and of the assignee in bankruptcy, and if either had a right to recover property, the plaintiff, in his capacity as such receiver, has acquired that right.

In that capacity he brought this suit in equity in the same District Court, to recover the proceeds of property alleged to have been fraudulently conveyed by James D. Sparkman, one of the bankrupts.

The original defendants were the bankrupt, James D. Sparkman, James T. Sparkman, the executor of Mary Ann Sparkman, the deceased wife of the bankrupt, and John Q. Preble.

Pending the suit, James T. Sparkman was removed, by the order of a probate court in New York, from his office as executor, and The United States Trust Company of New York, the present appellant, was substituted in his place.

The property of which the proceeds were sought to be recovered was leased property situate in Forty-second street, in the City of New York.

The District Court dismissed the plaintiff's bill (*p.* 209, *fol.* 352).

The Circuit Court, on appeal by him, sustained the bill, and awarded the proceeds of the property to him (*p.* 617), and also awarded him a money recovery to be collected out of the estate of Mary Ann Sparkman.

From this decree The United States Trust Co., as executor of Mrs. Sparkman, appeals.

The charges in the bill (*fols.* 1 *to* 11), were, in substance, that for several years prior to December 1st, 1865, James D. Sparkman was a special partner with Ephraim B. Place and James K. Place, in the firm of J. K. & E. B. Place; that that firm owed a large amount of indebtedness, which was not fully paid at the time of the bringing of this suit; that on December 1, 1865, Sparkman and James K. Place formed a general partnership with each other under the firm-name of J. K. Place & Co.,

and took the assets and continued the business of J. K. & E. B. Place; that before the formation of the firm of J. K. Place & Co., Sparkman owned the leasehold in question; that in contemplation of the liabilities which he was about to incur as a member of the new firm, and of the existing liabilities of the old firm, Sparkman conveyed the premises to James K. Place, by deed dated November 30, 1865, and James K. Place conveyed them to Mrs. Sparkman, by deed dated December 1, 1865, and that each of such conveyances was voluntary and without consideration, and made with intent to hinder, delay and defraud both existing and intended creditors of Sparkman; that after the making of the conveyances, he continued in the actual use and occupation of the premises; that Mrs. Sparkman died in October, 1866, leaving a will by which she gave the income of her property to her husband, for his life, and appointed James T. Sparkman her executor; that the executor conveyed the property to John Q. Preble for $60,000, taking Preble's bond and mortgage for $40,000 of the purchase money; and then avers the proceedings in bankruptcy, the appointment of a receiver, &c.

The several salient points of fact around which the testimony was concentrated were the following:

I.—The fact and the act of the making of the conveyances.

II.—The circumstances accompanying, and the situation in prospect at the time of, the conveyances.

III.—The disposition made by Mrs. Sparkman and her representatives of the property and its proceeds.

IV.—The intent, motive, and operation of the conveyances, as illustrated by their circumstances and result, and by the disposition made of their proceeds.

I.—As to the particulars of the Conveyances.

On March 14th, 1863, Gloverina R. Hoffman leased the property of James D. Sparkman for twenty-one years, with covenants of renewal (*fol.* 36, *Exhibit* 1).

By deed dated November 30, 1865, James D. Sparkman assigned the lease to James K. Place. This assignment was acknowledged December 5th, 1865, and was recorded December 9th, 1865 (*fol.* 43, *Exhibit* 2).

By deed dated December 1st, 1865, acknowledged December 5th, 1865, recorded December 9th 1865, Place assigned the lease to Mary A. Sparkman, wife of James D. Sparkman (*fol.* 44, *Exhibit* 3).

These assignments falsely recited the receipt of a pecuniary consideration.

II.—The circumstances accompanying, and the condition of things in prospect at the time of, the Conveyances.

On November 30th, 1865, James D. Sparkman was a special partner in the firm of J. K. & E. B. Place (*p.* 39, *Exhibit* 10).

This firm had been formed in December, 1864, to terminate December 31, 1866. It was formed pursuant to the Revised Statutes of New York, Part 2, chapter 4, Title 1. One of the provisions of these statutes (*sec.* 2) was this: "Such" (limited) "partnership may consist of one or more persons, who shall be called general partners, and who shall be jointly and severally responsible as general partners now are by law; and of one or more persons, who shall contribute, in actual cash payments, a specific sum as capital to the common stock, who shall be called special partners, and who shall not be liable for the debts of the partnership beyond the fund so contributed by him or them to the capital."

James D. Sparkman, as a special partner in the firm of J. K. & E. B. Place, was under the protection of these provisions of statutory law.

For some reason, the firm of J. K. & E. B. Place came to a premature end. Instead of enduring the agreed time, viz.: until December 31, 1866, it was dissolved on November 30, 1865, simultaneously, or nearly so, with the making of the conveyances in question, and on the next day, December 1, 1865, James K. Place and James D. Sparkman became general partners, under a written agreement, in a new firm of J. K. Place & Co. (*p.* 55, *Exhibit* 16).

Sparkman thus came out from under the shelter of the statute which had protected him from liability beyond the amount of his capital. The motive of this change in Sparkman's relations to the business was not to give him any greater practical control (*p.* 229, *q.* 7): for he testifies that he took no part in the business; nor was it to give him a larger share of the profits, for that remained unaltered. The object was to enhance the credit of the new firm. For that purpose his relations underwent a superficial change, sufficiently ostentatious to impress creditors; but he simultaneously took hostages from, instead of giving hostages to, fortune, by making a real, not a sham, change, in the legal title to his property, and a sham, but not real, change in the beneficial interest therein.

December 1, 1865, was the date also of a conveyance of land made by Place to his wife, which this Court, at October term, 1876, in the case of *Phipps* vs. *Sedgwick*, pronounced to be fraudulent.

The firm of J. K. & E. B. Place, at the time of its dissolution, owed debts amounting to about $3,850,000, but its books were so written up as to show, on paper, a surplus to the credit of the partners of about $685,000 altogether (*p.* 57, ninth, tenth, and eleventh items from bottom).

Sparkman's share of this assumed paper surplus was $262,000. He owed at that time individual debts which are not yet paid, amounting to about $20,000 (*pp.* 68 *to* 71, *depositions of Buckmaster and Fletcher*). Some of the debts of J. K. & E. B. Place are still unpaid (*p.* 67, *Ten Broeck's deposition*).

By the terms of the general partnership arrangement with James K. Place, Sparkman was to contribute $200,000 to the capital of the

new general partnership, while Place was to contribute $600,000 (*p.* 55, *Exhibit* 16). Neither of them contributed anything in fact to the capital, beyond his interest in the assets of the former firm of J. K. & E. B. Place (*p.* 41, *fol.* 67). Sparkman's interest in such assets was $262,000. But Place's was only about $227,000, including $30,000 invested as capital in another firm of Place & Turlay, and including the property which he conveyed to his wife, and on which he was under contract to expend $60,000, which he meant to take out of J. K. Place & Co., and including other property worth $120,000, mortgaged for $120,000 (*p.* 561, *q.* 267 to 270). Sparkman knew all this (*p.* 540, *cross-q.* 1 to 44; *p.* 527. *q.* 60 *to* 61; *p.* 234, *q.* 21, 22; *p.* 558, *q.* 232 *to* 236; *p.* 555, *q.* 186 to 189). The nominal interest of the retiring partner, Ephraim B. Place, was $168,529.96, which he was at liberty to withdraw (*p.* 216, *fol.* 375, 376).

The new firm continued to use the old firm's books and assets, and bought the merchandise of the old firm at $1,474,623.44, thus taking at once out of the old firm $1,000,000 more than their share, and becoming indebted to the old firm to that amount (*p.* 217, *fols.* 378 *to* 380; *p.* 526, *q.* 38; *pp.* 545 *and* 546, *q.* 49; *fol.* 67, *p.* 540, *cross-q.* 1 *to* 49; *p.* 545, *q.* 49 *to* 79).

The merchandise was inventoried first at its gold value, viz.: $996-367.19, and to this, in order to get at a currency valuation, was added a premium of 48 per cent., viz.: $478,256.25, making a final valuation, in currency, of $1,474,623.44 (*fol.* 378 *to* 380, *p.* 572, *q.* 304 *to* 305).

The old firm, while owing on December 1, 1865, an indebtedness of $3,850,000 in addition to the $168,000 coming due to E. B. Place, had on hand in cash $137,000 (*p.* 250, *fol.* 434), or about three per cent. of its indebtedness.

The new firm, besides buying the merchandise of the old firm at a price $1,000,000 in excess of the new firm's capital, began immediately to run in debt otherwise (*p.* 513 *to* 518, *Ex.* 73, 74).

In April, 1866, the new firm made its note, dated December 1, 1865, for $30,000, a part of which still remains unpaid (*p.* 67). The conveyances in question were not acknowledged until five days, nor recorded until nine days, after December 1, 1865 (*fols.* 42, 45).

The defendants, James D. and James T. Sparkman, have each twice sworn that James D., about December 1, 1865, determined to settle on his wife the sum of $100,000, and that such determination grew out of the fact that he was about to embark in business as a general partner in the firm of J. K. Place & Co. (*p.* 73, *fol.* 112, *to p.* 79, *fol.* 121).

Not unduly amplified, this means that knowing on December 5 that on December 1 he had incurred great business risks which his means might not be adequate to meet, he meant to relieve $100,000 of his then existing property from those risks. That is equivalent to saying that the conveyance was made in contemplation of possible insolvency, and with the determination that the consequences of such insolvency should fall on creditors then existing as well as on those to whom he meant to run in debt, while this property should be in a position where he could influence, if not control, its use, and the disposition of its proceeds.

He and his son also swear that part of the $100,000 designed to be settled on the wife consisted of $40,000 of Government bonds (*p.* 73, *fol.* 112 *to p.* 79, *fol.* 121).

A history of this bond transaction appears in the record.

The entries in the account books of the firms relating to these securities, are as follows: An account (*Exhibit* 13, *p.* 51) was opened on the books of the special partnership of J. K. & E. B. Place in March, 1865, under the heading "*United States* 7 3-10 *bonds, J. K. & E. B. P.*" It was charged with cash and interest down to November 30, 1865, to the amount in all of $165 702. It was closed December 31, 1866, by charging the balance ($40,132.18), which then stood to its debit, to a new account headed "U. S. 7 3-10 bonds.—J. D. S." (*p.* 52, *last line of Exhibit* 13). This new account appears at *p.* 52 (*Exhibit* 14). It was continued down to November 20, 1867, the day of the failure of the firm, when it was closed by charging the balance which then stood to its debit to James D. Sparkman (*p.* 52 *last item of Exhibit* 14, *and p.* 300, *q.* 370, *et seq.*)

In the trial balance of December 31, 1866, there appears among the assets of the firm an item entitled "*U. S.* 7 3-10 *bonds, J. D. Sparkman*, $40,132.18" (*p.* 46, *Exhibit* 12, *top line*).

In a communication sent by James K. Place to a committee of the firm creditors in February, 1868 (*p.* 412, *Exhibit* 58), James K. Place says: "The $40,000 Government bonds charged to Mr. Sparkman, Nov., 1867, were conveyed to his wife December, 1865, by a legal document, and their not being charged to *his* account before was the fault of the book-keeper."

The proofs, besides the entries in the books, show the following facts, viz.:

Twenty-six of these bonds were 7-30's, numbered from 75,207 to 75,232, inclusive, and fourteen were 5-20's, numbered from 24,399 to 24,412, inclusive (*p.*298, *q.* 349). The last fourteen were obtained in June, 1867, for J. K. Place & Co., by the cashier, Burritt, in lieu of 7-30 s of an equal amount, which matured at that time (*p.* 299, *q.* 361 *to* 368). The original $40,000 were embraced in the purchase of bonds made by J. K. & E. B. Place in 1865, which purchase amounted to about $160,000.

In November, 1865, James K. Place was charged with $34,816.78 and Ephraim B. Place was charged with $34,816.78 out of the $160,000 of bonds (*p.* 184, *Exhibit* 37, *and p.* 221, *Exhibit* 30, *under date of November* 30, 1865), and thus they became severally entitled to that quantity or proportion of the whole purchase.

At the end of December, 1866, Sparkman received a statement of account between himself and his firm (*pp.* 227 *and* 228, *qq.* 1 and 2).

He testifies that that was his private account given him to show how he stood; that it purported to be a statement of the transactions between him and his firm; that besides the transactions stated in this paper between him and his firm, consisting of paying them cash, money and property, or receiving money and property from them, he had, so far as he knew, no other transaction which would affect his balance one way or the other; and that it was a complete statement of all his transactions with the firm, so far as he knew. He had one or two private transactions or speculations with them in coffee or pepper. There is some account in the document of 1,000 bags of pepper, and he presumes that is it.

After having looked at the document, he knows of no transactions with the firm in the way of paying them money or property, or receiving

money or property from them during the year 1866, which does not appear on the memorandum, but his share of the losses of the firm for 1866 was omitted to be charged to him.

That memorandum or statement of account nowhere charges him with the bonds; and it covers the period from November 30, 1865, to December 31, 1866.

At some time or other James D. Sparkman executed an instrument (*Exhibit* 19, *p.* 65), dated the 7th of June, 1866, by which he purported to transfer these forty bonds to J. K. Place; and James K. Place executed an instrument (*Exhibit* 20, *p.* 66), dated June 8, 1866, by which he purported to transfer them to Mary Ann Sparkman, the wife of James D. Sparkman. Mrs. Sparkman, in June, 1866, was suffering her last illness (*p.* 79, *q.* 2 *to* 8). She was James K. Place's sister (*p.* 27, *Exhibit* 4, *fol.* 47).

The bonds or their substitutes appear to have remained in the possession of J. K. Place & Co., from November 30th, 1865, until November 19th, 1867 (*p.* 297, *q.* 332 to 350). They were used by the firm to raise money upon, and were, on November 19th, 1867, actually under hypothecation to secure the repayment of money loaned to J. K. Place & Co. On that day a check of the firm for $99,553 (*p.* 297, *q.* 332, *also p.* 51) was drawn on the Metropolitan Bank, and was used for the purpose of buying $92,000 worth of Government securities; and these newly-purchased Government securities were used as substitutes for the other securities then under hypothecation; among which latter were the forty bonds in question. These forty bonds went back to the place of business of the firm, and afterwards turned up in a mysterious way in the possession of the son of James D. Sparkman, the defendant James T. Sparkman, then acting as executor of the will of his stepmother, Mary A. Sparkman, who had died in October, 1866 (*p.* 96, *q.* 99 *to* 189, *and p.* 100, *q.* 207 *to* 236, *and pp.* 104 *to* 112, *and p.* 238, *fol* 413).

Mary Ann Sparkman, at her death in October, 1866, left a will dated July 20th, 1866, by which she gave her husband, James D. Sparkman, the income of her estate for his life; and then gave the *corpus* of her estate to *his* children, and appointed *his* son, James T. Sparkman, and *her* brothers Charles Place and James K. Place, executors (*p.* 27, *Exhibit* 4).

James T. Sparkman alone qualified as executor (*Exhibit* 5, *p.* 28). He made no inventory of her estate until December 2d, 1867, which was some two weeks after the failure of James K. Place & Co. (*Exhibit* 6, *p.* 29 *to p.* 31).

In the inventory, he included the forty bonds in question; but in the meantime he had sold them, and had loaned the proceeds to the corporation of Sparkman, Place and King, of which he was secretary, and his father President (*p.* 54, *and fols.* 122 *to* 138, *also p.* 101, *q.* 231, 232; *also p.* 248, *q.* 112 *to* 118).

This loan was made with the knowledge of his father. Sparkman, Place & King was a corporation which, at that time, embraced as its stockholders James D. Sparkman, James T. Sparkman, James K. Place, or Susan A. Place, and Charles Place (*Exhibit* 18, *p.* 63 *and p.* 79, *q.* 1 *to* 81; *p.* 400, *q.* 22).

It was indebted to J. K. Place & Co. and James D. Sparkman at that time upwards of $80,000 for money loaned and then payable: but

the loans had been settled in October or November, 1867, by the corporation giving its notes payable in one year or more (*p.* 239, *q.* 50 to *p.* 241, *q.* 53, 318, *q.* 583 *to p.* 319, *q.* 565; *also p.* 54).

Sparkman, Place & King subsequently to the commencement of this suit, became bankrupt; and James T. Sparkman, as executor of Mary Ann Sparkman, proved the notes received by him for the proceeds of the bonds, as a claim against its estate (*p.* 71, *Exhibit* 21).

This court is not called upon to make any decree respecting these bonds, because the appellee, as Sparkman's assignee in bankruptcy, has recovered their proceeds in another suit. Their history is referred to only in illustration of the charge of fraud.

Other simultaneous transactions may be referred to in illustration of the same charge, viz.:

Just at the time of the formation of the firm of J. K. Place & Co., Place set apart for his wife $34,816 in Government bonds (*p.* 547, *q.* 67, *Exhibit* 37, *p.* 284,) under date of November 30, 1865). The evidence already referred to, shows that the firm continued to use those bonds as its own, whether in fraud of the transfer to Mrs. Place, or in pursuance of the original intent, is immaterial. At the same time a Sugar Refining firm, doing business under the firm name of Place & Turlay, consisting of James K. Place, Charles Place, Turlay, and others, debtors to J. K. Place & Co., made two mortgages on its own property for $25,000 each, one of which was given to Mrs. J. K. Place, and the other to Mrs. E. B. Place. One was charged to James K. Place on the books of J. K. Place & Co. (*p.* 284, *Ex.* 37, *under date of November* 30, 1865, *and p.* 221, *ex't* 30, *same date*). The whole history of Place & Turlay, which seems to have an intimate connection with the matter in dispute, is this: a firm of Taber & Place was formed in 1863, to which J. K. Place and E. B. Place contributed a special capital of $10,000 (*p.* 506, *ex't* 68), which was repaid. This was succeeded by "Charles Place," to which J. K. & E. B. Place contributed a special capital of $15,000 (*same ex't*). This was succeeded by Place & Turlay, Special No. 1, to which J. K. & E. B. Place contributed $15,362.27 special capital (which was withdrawn from "Charles Place"), and in return for that, as well as to repay to Sparkman $10,966 which he had advanced, J. K. & E. B. Place appear to have received from Place & Turlay No. 1, on November 21, 1865, $30,000 (*same ex't, credit side*). This was succeeded on November 30, 1865, just prior to the date of the formation of J. K. Place & Co., by Place & Turlay, No. 2, to which J. K. & E. B. Place appear to have contributed, as special capital, $60,000, one-half of which was on account of J. K. Place, and one-half on account of E. B. Place (*p.* 541 *and p.* 216, *fol.* 376).

E. B. Place's share of this investment, viz.: $30,000, was charged to his personal account, under date of April 24, 1866 (*p.* 22, *last line*), but was not credited to the Place & Turlay, No. 2, account until December 31, 1866, when it was so credited under date of December 1, 1865 (*p.* 541).

But in April, 1866, E. B. Place sold his share of this investment to Sparkman and J. K. Place for $30,000, for which J. K. Place & Co.'s note was given, *dated December* 1, 1865 (*fol.* 375). This note was not charged to the account of Place & Turlay, No. 2, until November 20th

1867, the day of the failure of J. K. Place & Co., at which time the total investment on that account appeared to be $68,686 (*p.* 541).

This investment was a total loss (*p.* 577, *q.* 346: *p.* 294, *q.* 298; *p.* 367, *q.* 73, 74).

Place & Turlay, No. 2, was turned into a corporation by the name of the Place Sugar Refinery. J. K. Place & Co. were endorsers for it at the time of their failure to the amount of $280,000 to $300,000 (*p.* 350, *q.* 613). The corporation commenced operations with mortgages on its property to the wives of the two Places, amounting to $50,000 (*p.* 431, *q.* 730 *to* 731). It began, in 1865, to build a refinery at a cost of $265,000 (*p.* 579, *q.* 366 *to* 369). It was short of means from the start (*p.* 579, *q.* 366, 365).

In March, 1867, a mortgage on the refinery was given to E. B. Place's wife for $50,000 (*pp.* 432, 433), in which Sparkman joined.

By May, 1867, it had become indebted to J. K. Place & Co., for call loans and on other accounts in nearly the sum of $300,000 (*p.* 235, *q.* 25; *p.* 306, *q.* 429, *ex.* 45). For a part of this indebtedness J. K. Place & Co. took stock in the refinery to the amount of $133,400 (*p.* 306). This stock was a dead loss (*p.* 321, *q.* 466; *p.* 368, *q.* 78, 79 and *p.* 235, *q.* 26).

It thus appears that one of the principal causes of loss to J. K. Place & Co. was a speculation in refining sugar, which was begun simultaneously with the making of the conveyances to Sparkman's wife—and the possible consequences of which both Place and Sparkman must have had in view at that time.

James D. and James T. Sparkman both testify that in December, 1865, James D. was worth $200,000 over and above the amount to be contributed by him to J. K. Place & Co., and his intention was to settle $100,000 on his wife, (which would leave him $100,000 to pay his debts with). His personal debts were at least $20,000. How the $100,000 which he proposed to retain was invested is shown by his own deposition (*p.* 236, *fol.* 409). It was already at risk in some other business. At all events he seems not to have limited his undertakings to the amount of capital which he intended to retain; for in his own and legitimate business of cork-making, as a member of the firm of Sparkman, Truslow & Co., and its successor, the corporation of Sparkman, Place & King, his capital was so inadequate that he had to borrow $60,000 from J. K. Place & Co., and $60,000 from his wife's estate, while it (the corporation) already owed him $20,000 borrowed money, after he had invested $30,000 in its stock.

In December, 1865, Sparkman was president of the Manufacturers' Bank, in which he was a stockholder to the amount of $18,000 to $20,000. He had $10,000 or $12,000 of Corn Exchange Insurance Company stock, he being president of the company. He had advanced $145,000 to the Cork and Whiting American Mills Company, and that interest subsequently shrunk to the value of $15,000 to $20,000. He had "an interest in Taylor & Young's concern," arising from a money contribution of $20,000. That shrunk to nothing. His Corn Exchange stock was hypothecated to his bank. He had about $5,000 in the American Exchange Insurance Company. He had a mortgaged store in Pearl street, worth, in gross, $35,000. He had $15,000 in a "boot and shoe concern." He had $262,000 with J. K. Place & Co., which included the bonds above referred to, and also included a stable on

Forty-third street (*p.* 236 and *p.* 238, *q.* 40). He could not carry out the purpose of settling $100,000 on his wife, without drawing on the deficient capital of J. K. Place & Co. The Forty-second street property here in question was all that he had not actually invested in business. That was the only spare spar in his ship. He took it from his passengers and lashed himself to it before and after the storm.

The surplus of J. K. and E. B. Place was only a paper surplus. They owed $3,852,000. Their assets on paper were $4,509,000. It would have taken $\frac{1}{3}$ of every asset they had to pay their debts. Their total surplus was $\frac{2}{9}$ of their assets. Sparkman's share of that was about $\frac{1}{4}$, being $\frac{2}{37}$ of the whole. His plan involved the reduction of even that interest to a smaller sum by the donation of the bonds to his wife.

When J. K. Place & Co. failed, their assets were at least $600,000 less than their debts (*Burritt, p.* 54). They had settled on their wives some $279,000.

Mr. Sparkman's inventory made at the time of his insolvency (*p.* 145) proves the assertion that the settlement left him nothing not at risk in business.

Doubtless what he put in the inventory was the remains of the $100,000 which he says he had left in 1865.

The Forty-third street lots which he put in the inventory were, in fact, partnership property of J. K. Place & Co. (*p.* 45, eighth line from bottom, and *p.* 58, nineteenth line from top).

The Manufacturers' Bank stock was subject to the risks of business. That bank was a creditor of Sparkman and of J. K. Place & Co., to the aggregate amount of more than $150,000 (*pages* 135, 159, 163, 170, 172, 187, 193, 195, 197, 243, 245).

While Sparkman, Place & King, which was one of Mr. Sparkman's concerns, was drawing aliment from J. K. Place & Co., which was another of Mr. Sparkman's concerns, the latter was taking milk from the Manufacturers' Bank, which was another of Mr. Sparkman's concerns, and Taylor & Young, and Sparkman & Co. were doing the same thing. His capital had to do quadruple duty. (*Place, p.* 579, *q.* 374 *to* 384).

Another item in his inventory is a note of his son for $19,800, given on the eve of the father's insolvency, for the latter's stock in the insolvent corporation of Sparkman, Place & King (*pp.* 94, *q.* 73 *to* 78.).

Another item is a note of the same insolvent corporation for $20,437. These two items are the direct result of investments existing in 1865.

Another item is, two shares of the same insolvent corporation.

The only substantial items in the inventory are a mortgage for $28,000 and the Pearl street property, while his personal liabilities (*pp.* 134, 135) are stated at $200,000.

A resumé of the evidence shows then that on Dec. 5th, 1865, he owed $20,000 of his own, and had, jointly with James K. Place, assumed debts amounting to $3,850,000; that he had entered upon a business involving great risks, requiring a capital of $800,000; that there was contributed to that capital no more than $317,000; that he assumed to be worth $400,000, of which he had pledged $200,000 to J. K. Place & Co.; that the residue of his property was invested in a hazardous and risky business, requiring large capital, and not possessing adequate resources; that under these circumstances, moved by the consideration of the risks he had incurred and was about to incur, he resolved to put $40,000 of

the capital of his firm, and $60,000 of his private estate, in a position where a hostile title could be asserted against creditors, but where he could and must enjoy the benefit of those sums, unless he separated from his wife; that while leaving existing creditors unsatisfied, he carried out part of his design, and postponed the execution of the remainder until his wife was hopelessly sick, when he executed his assignments just in time to have the subject of those assignments embraced within the scope of a last will made for his benefit; that he never parted with the possession of any part of the real estate in question, nor of the bonds or their proceeds; that the $100,000, which would be nominally his after this settlement and partnership, was, without satisfaction of existing creditors, risked in business and lost, together with the entire capital of J. K. Place & Co., and that when insolvency arrives, and he is asked to account for his property, he justifies as against his unsatisfied creditors *his* actual possession and enjoyment of $100,000, by asserting a colorable title in his wife, or in *his* son as her representative.

The comprehensive fact, embracing many details, is established, that in December, 1865, with many irons already in the fire (page 230), and on the eve of starting a new and risky business, to which Place, the proprietor of $227,000 at the utmost, had agreed to contribute $600,000, the two foreordained bankrupts united with each other in arranging to transfer to their wives property to the amount of $279,000.

Their subsequent history goes to the point of the honesty and effect of these arrangements.

The proofs (*p.* 56, 5th *line from bottom*) show that in December, 1865, J. K. & E. B. Place had notes outstanding to the amount of $1,246,777.-08. That is the balance of the "Bills payable" account from page 36 of the ledger of J. K. Place & Co. Upon turning to that ledger (*p.* 513, *Ex.* 73), it will be observed that this account of bills payable commences November 30th, 1865, with the same item of debt which is found at *p.* 56, namely $1,246,777. The account then proceeds to credit to the account of bills payable, as debts incurred by the firm, various notes, referring to the original entries in the cash book (*Ex.* 74, *p.* 516), from which the entries in the ledger are posted. Thus it appears that before the debts of J. K. & E. B. Place were paid, J. K. Place & Co. began to make new debts in the shape of notes of the old firm which were sold at rates varying from 7½ to 9 per cent. per annum.

Turning to the cash book at the pages to which the ledger refers (*Ex.* 74, *p.* 516), we find that the references in the cash book are to page 36 of the ledger, being the page to which the bills payable account is posted; and the references in the ledger are to those pages in the cash books from which the above extracts are copied.

These extracts from the ledger and cash book show that J. K. Place & Co., up to January 1, 1866, continued to raise money by selling the notes of J. K. & E. B. Place; that in January, 1866, J. K. Place & Co. began to raise money by selling their own notes, and that every note issued by them up to May 18, 1866, was issued to raise money, and that they raised in that way in that time $1,201,972.73.

That is, the aggregate footing to the credit of the bills payable account up to May is (*p.* 514)..... $2,448,749 81
Footing November 30, 1865 (*p.* 513)..... 1,246,777 08

Difference..... $1,201,972 73

This was the amount of notes issued between December and May

Their bills payable account shows (in the left hand or debit column, *Ex.* 73, *p.* 513) what payments were made on account of the outstanding notes of J. K. & E. B. Place, and that while such outstanding notes amounted on December 1, 1865, to $1,246,777, and further notes were made in their name in December to the amount of $215,000, making in all $1,461,777, yet the charges to the bills payable account for payments up to and including March, 1866, amount to only $1,502,498.15; thus demonstrating that it took until April, or nearly so, to pay outstanding notes of J. K. & E. B. Place, and that such outstanding notes were paid out of the proceeds of new notes.

At the end of 1866 the books of J. K. Place & Co. were so manipulated as to show a balance to the credit of the profit and loss account of $606,785 95. But in truth the ascertained losses of the firm amounted to $205,276.79. Place's proportion of this was $153,050.68. Sparkman's proportion was $51,019.90 (*p.* 278, *Ex.* 8, *q.* 187 to *q.* 202; *p.* 377, *q.* 57 to *q.* 71; *p.* 709, *q.* 305 to *q.* 319). And Sparkman, in 1866, drew out about $52,000 (*p.* 227). In November, 1867, they made an assignment to two of their clerks, Burritt and Sheffield. In February, 1868, they were adjudged bankrupt, and in April, 1868, they added to their other luxuries that of an assignee under that adjudication.

III.—THE DISPOSITION MADE, under cover of the conveyances, of the property and its proceeds, was as follows:

The property constituted the family residence, and Mr. Sparkman continued to live there until October, 1868 (*p.* 95, *q.* 81 *to* 86).

By will dated July 30th, 1866, Mrs. Sparkman gave her property to her executors, in trust to pay the income to her husband, James D. Sparkman, for his life, and then to divide the principal among *his* children. She appointed *his* son (her stepson) James T. Sparkman, one of her executors (*fols.* 136 *to* 140). She died in October, 1866 (*fol.* 46, *Exhibit* 4).

James T. Sparkman qualified as her executor, and letters testamentary were issued to him (*fol.* 48, *Exhibit* 5).

By deed, dated October 26th, 1868, which was after the assignment to Burritt and Sheffield, and after the plaintiff's appointment to be assignee in bankruptcy, James T. Sparkman, executor, assigned the lease to John Q. Preble, who is also a defendant in this suit (*p.* 32, *Exhibit* 7). The consideration for this assignment, as expressed in it, was $60,000 (*fol.* 54).

Preble, in fact, on November 23d, 1868, paid $18,196.60 in money (*Preble, p.* 31), and gave his bond and mortgage for $40,000 (*p.* 35 *to* 38, *Exhibits* 8 *and* 9).

At the date of the assignment to Preble, James T. Sparkman and James D. Sparkman were both stockholders in a corporation called Sparkman, Place & King, of which James D. was president, and James T. was secretary (*pp.* 79, *q.* 9 *to p.* 95, *p.* 101, *q.* 231, 232).

On the books of this corporation there was an account kept with James T. Sparkman, executor, on which he was credited, November 24th, 1868, being the day after the payment of cash by Preble, with $18,000 (*page* 113, *Account No.* 2).

The corporation entitled Sparkman, Place & King was adjudged

bankrupt in 1869, and on December 13th, 1869, James T. Sparkman, as his stepmother's executor, filed a proof of debt against it for $65,846.24. He held its notes for $52,997.74, and the balance was in open account (*p.* 71, *Exhibit* 21).

Mrs. Sparkman's estate, as inventoried, amounted to $93,800, consisting chiefly of the leasehold premises in question, and of $40,000 of government bonds (*p.* 29, *Exhibit* 6, *to p.* 31).

The whole cash proceeds of her estate seem to have been loaned to Sparkman, Place & King, regardless of the trusts expressed in her will (*p.* 113, *Accounts* 1 *and* 2).

Between January, 1867, and June, 1869, James T. Sparkman drew from the corporation of Sparkman, Place & King $21,000 over and above all sums placed to his credit (*p.* 114, *account No.* 3).

In 1867, the corporation, Sparkman, Place & King, was a very large borrower from the firm of J. K. Place & Co., of which James D. Sparkman was a member. That firm failed November 20th, 1867. Among its assets were notes of Sparkman, Place & King for $62,039.24 (*p.* 141, the six items of debt due by Sparkman, Place & King, *p.* 351, *q.* 630, *p.* 318, *q.* 583 *et seq.*), payable at twelve months from October and November, 1867, given for moneys borrowed in 1867. It also owed J. D. Sparkman individually $20,473.37 (*p.* 145, seventh item of Sparkman's property), for which it gave its notes payable in two years; so that when James T. and James D. Sparkman invested the cash proceeds of Mrs. Sparkman's estate in loans to Sparkman, Place & King, that concern was already enjoying an extension of one and two years for money which it had borrowed in 1867.

The proceeds of the conveyances in question, therefore (so far as they have been saved from the pockets of James T. Sparkman), are now shown to exist in the shape of a bond and mortgage for $40,000, and of notes and accounts against Sparkman, Place & King for about $20,000, all of which are in the hands of receivers appointed in this cause.

IV.—The intent, operation and motive of the conveyances are readily deducible from the facts, and from the declarations of the parties. Unless what has followed the conveyances, viz., the exclusion of creditors from the use and enjoyment of the property while the debtors had such use and enjoyment to the utmost extent, is to be deemed purely accidental, it must be attributed to design; and to attribute it to chance or accident would be to doubt the veracity of the defendants when they swore, in substance, that the motive which inspired the settlement was to avoid exposing the property to the business risks which Sparkman meant his creditors should incur.

Propositions of Law on behalf of the Appellee.

1. *As to the validity, as against creditors, of the conveyances in question.*

I.—The Bankruptcy Act of 1867, which was in force when this suit was brought, provided (sec. 14) that all the property conveyed by the bank-

rupt in fraud of his creditors should, in virtue of the adjudication of bankruptcy, and the appointment of his assignee, be at once vested in such assignee.

II.—The statute law of the State of New York, where the property in question was situated, provides (Rev. St., part 2, chap. VII, title III, sec. 1) that every conveyance of any estate or interest in lands, made with the intent to defraud creditors or other persons of their lawful suits, damages, forfeitures, debts or demands, as against the person so hindered, delayed or defrauded, shall be void. This statute, and the judicial expositions of it made by the courts of that State, constitute a rule of property there, "*and this court is, therefore, bound to apply it, in the case in hand*," in favor of the assignee, as the representative and agent of creditors, "*as if sitting as a local court in that State.*"

17 *Wallace*, 361, *Allen* vs. *Massey.*
1 *Otto*, 485, *Lloyd* vs. *Fulton.*

III.—The appellee's counsel submits that the following propositions correctly state the present condition of the law, as expounded by the courts of New York and by this court, upon the subject of the validity of voluntary conveyances as against creditors.

(1.) Actual concomitant insolvency need not be, in all cases, established.

6 *Paige*, 526, *United States* vs. *Housman.*
10 *N. Y. R.*, 227, *Carpenter* vs. *Roe.*
Id. 189, *Robinson* vs. *Stewart.*
13 *Howard* (*U. S.*) 97, *Parrish* vs. *Murphree.*
39 *N. Y. R.*, 164, *Case* vs. *Phelps.*
65 *Barbour*, 141, *Pendleton* vs. *Hughes.*

(2.) Actual insolvency, consisting in inability to meet engagements already entered into, is, however, fatal to such a conveyance.

Same authorities.
1 *Barb. Ch. Rep.*, 220, *Frazer* vs. *Western.*

(3.) If the conveyance is made with intent to defraud existing creditors, it is void as to them, whether the grantor is solvent or not, for a solvent man may defraud his creditors.

1 *Barb. Ch. Rep.*, 220, *Frazer* vs. *Western.*
20 *Wallace*, 31, *Kehr* vs. *Smith.*

(4.) Being void as to existing creditors, it is void as to subsequent creditors.

11 *Paige*, 589, *King* vs. *Wilcox.*

(5.) If made with intent to defraud subsequent creditors, or creditors whose rights are expected shortly to supervene, or those whose rights may and do supervene, it is void as to them, though not made with intent to defraud existing creditors.

8 *Bosworth*, 75, *Savage* vs. *Murphy.*
34 *N. Y. R.*, 508, *same case.*
39 *Id.*, 164, *Case* vs. *Phelps.*
2 *Otto*, 182, *Smith* vs. *Vodges.*

(6.) The intent may be inferred from the face of the instrument, or from its necessary or natural operation upon those who are affected by it, in intercepting their enjoyment of a legal right accrued or expected to accrue.

7 *Wend.*, 239, *ex parte Hurst.*
11 *Id.*, 241, *Cunningham* vs. *Freeborn.*
43 *Barbour*, 448, *Newman* vs. *Cordell.*
9 *N. Y. R.*, 213, *Edgell* vs. *Hart.*
14 *N. Y. R.*, 567, *Seymour* vs. *Wilson.*
6 *Wallace;* 78, *Lukins* vs. *Aird.*
7 *Blatchford*, 262, *Hardy* vs. *Bininger.*
11 *Jurist, N. S.*, 70, *Spirett* vs. *Willows.*
66 *N. Y. R.*, 374, *Young* vs. *Heermans.*

(7.) If the intent is not so inferrible, then it is deducible from all the circumstances of the case, of which the grantor's pecuniary relations, condition and prospects are of great weight. It can rarely be expected to prove a fraudulent intent by means of express avowals emanating from the debtor himself at the time.

5 *Cranch*, 351, *Moss* vs. *Riddle.*
13 *How.*, 97, *Parrish* vs. *Murphree.*
1 *Otto*, 479, *Lloyd* vs. *Fulton.*
4 *Id.*, 28, *Humes* vs. *Scruggs.*

(8.) Proof of existing indebtedness at the time of the conveyance is *prima facie* evidence of fraud, and puts the proof of burthen of proving an honest purpose upon the grantee.

1 *Otth*, 479, *Lloyd* vs. *Fulton.*

(9.) Even the fact of a solvent condition at the time of the making of the conveyance is not a conclusive answer to other proof of fraud, because the grantor may intend to become insolvent by means of the conveyance.

54 *N. Y. R.*, 125, *Fox* vs. *Moyer.*
64 *N. Y. R.*, 73, *Cole* vs. *Tyler.*

(10.) An intent, accompanying a voluntary conveyance, to carry on a hazardous enterprise at the risk of creditors, is a fraudulent intent.

13 *Howard, Parrish* vs. *Murphree.*
65 *N. Y.*, 471, *Teed* vs. *Valentine.*

(11.) An intent to leave one's creditors to take the risk of the stability of the market, while the grantor reserves all the chances of success, is a fraudulent intent.

10 *N. Y. R.*, 287, *Carpenter* vs. *Roe.*

(12.) An intent on the part of the debtor to provide for his own future maintenance and support out of his property, which, by law, belongs to his creditors to the extent of their debts, is a fraudulent intent.

10 *N. Y. R.*, 257, *Robinson* vs. *Stewart.*
6 *Wallace*, 78, *Lukins* vs. *Aird.*

(13.) The intent to secure property for the benefit of one's self and family, in the event of loss occurring in new business in which the grantor is about to engage, the conveyance being made without consideration, is a fraudulent intent.

39 *N. Y. R.*, 164, *Case* vs. *Phelps.*

(14.) The inference of fraud which arises from the existence of debts at the time of the conveyance is not repelled by proof that what was left for the payment of debts was invested in trade, and depended for its value on the stability of the market, nor by proof that the grantor guessed, or supposed, or believed that he had enough left to pay his debts. If the conveyance has, in fact, impaired his means so that, in combination with other causes, it has rendered him insolvent as to existing debts, or as to debts within his purview or contemplation, or has aggravated his insolvency, it has operated fraudulently; if it has, in fact, misled, deceived, or cheated his creditors, it has operated fraudulently.

6 *Wallace*, 78, *Lukins* vs. *Aird.*
8 *Wallace*, 372, *Mattingly* vs. *Nye.*
28 *Id.*, 31, *Kehr* vs. *Smith.*

(15.) The actual intent being ascertained as matter of fact, the quality of such intent is not matter of fact, but matter of law.

6 *Wallace*, 78, *Lukins* vs. *Aird.*

For instance, if the intent of a grantor be established as matter of fact to have been to expose his property to the risk of diminution by losses in business, and at the same time to stealthily and gradually withdraw that same property out of the reach of his creditors, the question whether that intent is or is not consistent with honesty of purpose, is not a question for the jury, but is a question for a moralist or a jurist; and the oath of a party denying that such intent was fraudulent, raises an issue upon matter of law, and not upon matter of fact.

43 *Barbour*, 448, *Newman* vs. *Cordell.*
9 *N. Y. R.*, 213, *Edgell* vs. *Hart.*
Phipps vs. *Sedgwick*, *U. S. Supreme Court*, *Oct. Term*, 1876.

(16.) A wife or child, though innocent of any fraudulent intent, cannot hold under a grant which was, by the grantor, intended as a fraud upon creditors.

66 *N. Y.*, 374, *Young* vs. *Heermans.*

(17.) It is not necessary that the claim of a creditor who impeaches a conveyance should arise in the first instance upon contract; a claim growing out of a tort is sufficient.

18 *Johnson*, 425, *Jackson* vs. *Myers.*
20 *Johnson*, 472, *Wilcox* vs. *Fitch.*
53 *N. Y.*, 625, *Pendleton* vs. *Hughes.*

An existing liability to be called to account as a trustee is enough.

66 *N. Y.*, 374, *Young* vs. *Heermans.*

(18.) If a fraudulent use is made, or is intended to be made, of a valid settlement, the impeachment of the conveyance may be carried back to the time when the fraud commenced.

4 *Cowen*, 594, *Jackson* vs. *Town*.
59 *N. Y.*, 347, *Dunlop* vs. *Hawkins*.

V.—Applying these well-settled rules of law to the indisputable facts of this case, the following conclusions follow: (1.) The deeds to Mrs. Sparkman were made in fraud of creditors, within the meaning of section 14 of the Bankruptcy Law of 1867, and of the Law of New York of 1858, above referred to. (2.) They were made with intent to hinder, delay, and defraud creditors, within the meaning of the Revised Statutes of New York, as above quoted. (3.) Burritt & Sheffield were, under the New York Law of 1858, entitled to "disaffirm, treat as void, and resist" the settlement. (4.) The assignee of the bankrupts was, as such, vested by operation of law, through his appointment as assignee, with the title to the property; and (5.) The plaintiff, concentrating in himself the rights of both Burritt and Sheffield, and of the assignee in bankruptcy, is entitled to maintain the recovery which he has obtained, of the clearly identified proceeds of the property.

VI. Before proceeding to any other topic, it seems necessary to advert, to some extent, to the propositions contained in the appellant's brief. The learned counsel whose name is subscribed to that brief seems to have taken for his text the argument of the appellee's counsel in the case of Phipps *vs.* Sedgwick at the last term of this court, and to have fallen into the mistake of supposing that that cause remains still under advisement undecided. This misapprehension has led to much irrelevancy.

The learned counsel for the appellant attributes the decree of the Circuit Court, from which this appeal is taken, to, among other things (p. 23) "*the very positive and oft-repeated asseverations and charges of fraudulent intent made by the counsel for the complainant, to his array of figures, which were in the highest degree misleading, and to his utter disregard of dates.*" It is to be regretted if this appeal could not be argued without the use of such observations,—which are no more respectful to the court below than they are considerate to the counsel concerned,—because, among other reasons, they stimulate inquiry as to the accuracy and intelligence of the very counsel who indulges in them.

1. It is stated by the learned counsel (*p.* 3) that the amount of $227,301.62, which stood to the credit of J. K. Place, on November 30, 1865, was not fictitious. Here he is confuted by Place himself. That sum did stand to the latter's credit as representing what he would be entitled to receive, if the assets were converted into cash at their face and the debts paid (*p.* 540, *cross-q.* 2; *p.* 544, *q.* 30); but his own evidence shows (*p.* 540, *cross-q.* 1 to 49), that he was in the habit of draw-

ing out and investing money in his own name without having it charged to him, and that $177,000, instead of $227,000, truly expressed his proportion of the apparent surplus.

2. It is argued in the brief in question (*p.* 4) that at the outset, Place practiced a sham upon Sparkman, or Place & Sparkman practiced a sham upon each other, by carefully framing their articles of partnership so as to conceal their real meaning. The appellee's counsel has made no "asseveration or charge of fraudulent intent," which surpasses this. The appellant's counsel forgets to observe that the sham was repeated on the ledger, where Place was charged with $600,000, as if he had in good faith agreed to contribute it (*p.* 284, *Ex.* 37, *under date of Dec.* 1, 1865).

3. It is stated in the appellant's brief (*p.* 4) that Sparkman transferred to the new firm the whole of the $262,719.48 which stood to his credit on the books of the firm of J. K. & E. B. Place. This remark is made in utter disregard of dates, facts and figures. There is no evidence of any such transfer. If the making of a charge against Sparkman worked a transfer to the firm of the amount so charged, the utmost amount so transferred was $200,000 (*p.* 227, *under date of Nov.* 30, 1865). The learned counsel for the appellant, owing to the bulk and voluminousness of the testimony, and to the late period at which he came into the litigation, has, to use his own language (*p.* 23), "seriously misapprehended the effect and bearing of certain portions of the evidence in the case at bar."

4. It is stated in the appellant's brief (*p.* 5) that the capital actually contributed to the new firm was nearly half a million dollars. This is stated as the result of a sum in addition. The error is not so much in the addition as in the elements which are added. Place contributed $177,000, of which he meant to take out $60,000 for his wife (*p.* 549, *fol.* 926, *q.* 85). Sparkman contributed $200,000. He was at liberty to draw out $62,000, aad he did, in 1866, draw out $52,000 (*p.* 227; *p.* 406, *bottom*). The sum in arithmetic which the appellant's counsel should have done is this, 177,000 + 200,000 — 60,000 = 317,000. The two partners started $483,000 behind the engagement which the appellant's counsel shows to have been a sham.

5. It is stated by the appellant's counsel (*p.* 5) that the debts of J. K. & E. B. Place, were *all* paid in full within ninety days after December 1, 1865. He then mentions two which were not so paid. He says J. K. Place & Co. offered to pay these two, and that E. B. Place has paid them. The references which he makes to the testimony do not sustain his statements. But if E. B. Place paid those debts, he became entitled to make J. K. Place and Sparkman contribute to their repayment. And the proofs (*Exhibits* 73 and 74), show how the debts of J, K. & E. B. Place were paid. The new firm began to issue its own notes to enormous amounts. They used the proceeds to take up the notes of the old firm. This they did as a necessary consequence of taking to their own account $1,474,000 of the merchandise of the old firm (*p.* 545, *q.* 49 to 79, and *fols.* 380 to 383).

6. It is stated in the appellant's brief (*p.* 5) that the new house was at first very prosperous, and did a very handsome business until the summer of 1866. This is stated on the authority of Sparkman, whom the same brief states (*p.* 3) to have taken no part in the business. The contrary is stated on better evidence (*Titus, p.* 389, *fols.* 645, 646; *Place, p.* 580, *q.* 388 to 394).

7. It is stated in the appellant's brief (*p.* 7) that in December, 1865, Sparkman owed only $10,000, exclusive of bonds secured by mortgage. The contrary appears by the proofs. He owed on the Anderson notes as a principal $15,000 (*p.* 68, 69). He owed on bond and mortgage $23,000 (*p.* 242). He owed Buckmaster $1,500. He owed N. E. H. Wade $1,050. He owed A. C. Lee $2,500 (*p.* 243).

8. The appellant's counsel says (*pp.* 8, 9) that the recording of the deed was notice to all the world of a change of title. In this it is respectfully submitted he is mistaken. Under the recording acts of New York a registry of a deed is not notice to any one but a purchaser. No creditor is invited or encouraged to look at it or rely upon it (*Rev. Stat. of N. Y., Part* 2, *chap.* III, *sec.* 1). A party making a deed may, if the deed is not recorded, still make a good title in favor of a subsequent *bona fide* purchaser; and, by preventing a record, he may evince an intention to retain control; but he does not, by recording a deed to his wife, get rid of the inference, authorized by other circumstances, that he intended to defraud. He only shows that he means to put it in the power of his wife to defraud his creditors after having exercised that power himself.

9. In the record here in question, there was a false recital of the receipt of a pecuniary consideration. The record involved the publication, so far as there was a publication of anything, of a falsehood. It did not give notice to any one of the real character of the transaction.

10. A part of *p.* 9 of the appellant's brief must have been penned by a different hand from that which wrote page 5. On page 9 it is shown that Sparkman was at liberty to withdraw from J. K. Place & Co., $62,000 of the $262,000, which, it is stated on page 5, he transferred and contributed to the capital of the new firm.

11. In stating the differences (*p.* 8 and 9) between Place's case and Sparkman's, the learned counsel for the appellant overlooks one marked distinction. That is, that whereas Place was a partner in only two firms, Sparkman was a partner in three, and was also president of a bank and of an insurance company. He had no time to attend to anything thoroughly. He "made the rounds" once a day through the concerns he was interested in (*p.* 230), and which were dependent upon each other. He was well advanced in years, and was conscious of the difference between being a general partner and a special partner. He meant to give the new firm the additional credit of his name and responsibility; but at the same time he meant to get out of danger by stripping himself of all the property which he had not invested in busi-

ness. He meant to pretend that he had sacrificed the immunity which the law gave to a special partner, and yet he meant to keep that immunity without complying with the conditions which the law imposed. This is easily within

7 *Wendell*, 239, *Re Hurst.*
39 *N. Y.*, 164, *Case* vs. *Phelps.*
66 *N. Y.*, 381, *Young* vs. *Heermans.*

12. It is stated (*p.* 10) that the Fifth avenue property account was kept on Place & Co.'s books for Place's convenience. No doubt it was. Still the keeping it there was a fraud now transparent, for the bottom of the property had gone from the firm and Place to Mrs. Place in December, 1865, or April, 1866, and several scores of the firm's dollars were following it. It did not suit Place's convenience that the books should show this to be so. But the showing of the books was none the less fraudulent, because it was convenient to Place. Nor was it less fraudulent because it was part of a system of committing like frauds.

13. It is stated on *p.* 11 that J. K. & E. B. Place found, in November, 1865, that they had realized $60,000 from an investment of $15,000 in Place & Turlay, No. 1. Here is more wild disregard of figures. The accounts show (*Ex.* 68, *p.* 506, 507), that the amount paid back by Place & Turlay, No. 1, on November 21, 1865, upon an investment of $15,362.27, made December 31, 1863, and for an investment of $10,966.-74, made by Sparkman July 31, 1865, was $30,000; so that the investment produced but little more than interest.

14. At *p.* 11 the appellant's counsel begins to write the history of Place & Turlay. He omits, with zealous disregard of facts, the significant truth that in November, 1865, that firm, to which J. K. & E. B. Place had each just furnished $30,000 capital, mortgaged its property to the wife of each for $50,000, in all, of debt; and that again in March, 1867, by a mortgage in which Sparkman joined, it mortgaged its property to E. B. Place's wife for $50,000 (*pp.* 432, 433, *p.* 579, *q.* 370, *et seq.*)

15. At *p.* 24, the learned counsel for the appellant says that the account books of J. K. Place & Co. were never in one jot or tittle impeached. In the bulk and voluminousness of the testimony and proceedings, he has overlooked the proof to the contrary. They were impeached by James K. Place himself (*p.* 540, *cross-q.* 1 *to* 50). They were also impeached by Burritt (*p.* 264, *q.* 149, *et seq.*; *p.* 303, *q.* 404 *to* 418), and by Titus (*pp.* 390, 391), and again by Place himself (*p.* 550, *q.* 105, *p.* 566, *q.* 283, 284, *p.* 584, *q.* 402 *to* 405, *p.* 574, *q.* 305 *to* 321, *p.* 412, *ex't* 58) They were also impeached by this court in *Phipps* v. *Sedgwick*. They were never, to this day, so made up as to show that Place had conveyed $100,000 of firm money and land to his wife. *Place's* reckless opinion that his books were kept correctly, is injudiciously paraded by the learned counsel against the contrary opinion of this court, and against Place's own unguarded admissions of facts.

16. At *p.* 25, the learned counsel makes some criticism upon a sentence in Justice Hunt's *opinion* (not decree) purporting to affirm, when he

in fact reversed, Judge Blatchford's decree as to the property in question. The error was a very natural one. The case of the bonds was argued before Judge Blatchford with the case of the Forty-second street house. Judge Blatchford awarded the bonds to the assignee, and Justice Hunt, in the act of penning his opinion, lost sight of the fact—and a very extraordinary fact it was—that Judge Blatchford had discriminated between the two. Justice Hunt's assumption, at that moment, that Judge Blatchford had sustained the plaintiff's bill as to the house, as well as the bonds, was more complimentary to the consistency of the District Court than the contrary assumption, in a moment of forgetfulness, would have been.

17. At *pp.* 28, 29, 30, the learned counsel for the appellant undertakes to explain the method of doing business on a gold basis. One significant fact he has failed to observe, which is, that it was costing J. K. & E. B. Place from one-sixteenth to one-half of one per cent. a day for borrowed gold (*p.* 536, *q.* 206 *to* 212). The learned counsel seems to think that gold could be bought, sold, borrowed, lent, without brokerage, premium, commission, or chance of loss (*p.* 389, *fol.* 646).

18. At *p.* 25, the learned counsel questions the correctness of the statement of the learned Circuit Justice, that in 1866 the firm lost $175,000 in gold. He then proceeds to show that the firm did lose in 1866, according to J. K. Place's testimony, $180,000 altogether. (*See also p.* 539, *q.* 251.) The counsel also shows, to his own satisfaction, that the firm did not lose on its goods, nor in bad debts. Then where is the error of the Circuit Justice?

19. It is submitted that the exposition of the "gold basis" given by the learned counsel is not a success. If A. borrows $100,000 in gold, when gold is worth 148, and deposits $148,000 in currency to secure its return, and gold falls to 133, it is clear that $133,000 in currency will buy $100,000 in gold; but it is equally clear that the lender will not accept gold worth 133 as an equivalent for gold worth 148. There is no profit to A. in that transaction, while the lender gets his one-sixteenth to one-half per cent. per day commission (*p.* 389, *fol.* 646). Again, if A. values his mercandise on his books at $1,000,000 gold, or $1,480,000 in currency (as J. K. Place & Co. did, *p.* 546), and makes up his profit and loss account and the capital accounts of himself and his partners on that basis, and gold falls to 133, it is clear that the account of profits, and, through that, the accounts of the partners, must be reduced $150,000.

20. At *p.* 30, the learned counsel expounds trial balances, and tries to show how fair and yet how frail they are, thus essaying what he thinks every one else has failed in—an attack on the honesty of J. K. Place & Co.'s books. It requires no expert to know that a merchant's debts appear in the shape of balances to the credit of his creditors, and that his assets appear in the shape of balances to the debit of his customers or of his investments, except that balances to the credit of impersonal or nominal accounts or of partners may, in some cases, represent profits, and balances to the debit of impersonal or nominal

accounts or of partners may, in some cases, represent losses. A transcript of credit balances from personal accounts (excepting the partners) *must* represent debts (*p.* 251, *q.* 9, 10). Now, the credit balances on the trial balance of November 30, 1865, show an indebtedness of $3,850,000. The appellant's counsel says, however, that the immaculate books of J. K. Place & Co. must be wrong, because there are some accounts which are both in debit and credit. But the bookkeepers, Burritt and Morgan, explain this thus: In the cases in question, the firm had borrowed or lent money on security. The lender was credited with the amount loaned and charged with the value of the security. Thus, where Grinnell, Minturn & Co. are charged $178,000 in gold and credited $195,000 in currency, the meaning is, that Place & Co. owe Grinnell & Co. $195,000 currency, and have an asset, viz.: $178,000, gold, in the hands of Grinnell & Co. But these are not items of account to be offset against each other (*p.* 292, *q.* 278; *p.* 363, *q.* 19 *to* 21).

21. The appellant's counsel, at *p.* 31, charges the spotless books of J. K. Place & Co. with showing a fictitious debt of $563,294.29. He refers to the account of "Premium on Specie." But this is not a fictitious item. The firm owed a balance of debts payable in gold, over debts due them in gold, to the amount of $1,173,529.77 (*p.* 573). To ascertain the amount of this in currency, they opened an account called "Premium on Specie." They debited the merchandise account in favor of Premium on Specie with $563,294.29 as representing the amount of currency they must raise to pay their gold debts in currency. Thus both sides of their balance sheet, assets and debts, swelled up in amount. This is explained by Burritt and Morgan and by James K. Place himself (*p.* 572, *q.* 304 *to* *q.* 318; *p.* 292, *q.* 271 *to* 285; *p.* 366, *q.* 56).

22. The learned counsel, upon the authority of James K. Place, says (*p.* 33) that the indebtedness of J. K. & E. B. Place, November 30, 1865, was $1,000,000. James K. Place confutes him when, at *p.* 572, *q.* 304, he shows that the firm owed, in gold, in open account, $1,485,755.-94, equal in currency to $2,298,917. They owed outstanding notes to the amount of $1,246,777.08 (*Ex.* 73, *and p.* 57, *sixth line from bottom*, and also *p.* 552, *q.* 142). They owed enough besides, according to the trial balance, to make up the $3,850,000.

23. The alleged clerical mistake to which the attention of the court is called at *p.* 35 of the appellant's brief is not a mistake. The record is perfectly correct.

24. The court below was right in stating that, at the end of the first third of the year 1866, the condition of the firm had changed for the worse (*p.* 579, *q.* 366 *to* 376; *p.* 529, *q.* 94 *to* 112, *p.* 532, *q.* 140; *p.* 536, *q.* 206 *to* 212, *p.* 389, *fols.* 645, 646).

25. At *p.* 39, the learned counsel for the appellant rather snappishly carps at the Circuit Court for saying, that in November, 1867, Sparkman, Place & King had ceased to exist. The Circuit Court was substan-

tially right. Sparkman, Place & King had borrowed $60,000 from J. K. Place & Co. For this, J. K. Place & Co., just on the eve of their own failure, took notes of the insolvent corporation, payable in one year. But Place & Sparkman were stockholders in the corporation, and this was a device to keep its ashes warm (*p.* 579, *q.* 376 *to* 384). The fraudulent assignees, Burritt & Sheffield. turned over the notes, still unpaid, in November, 1869, to the assignee in bankruptcy.

26. Again, at *p.* 39, the appellant's counsel carps at the Circuit Court. This time it is for what that court said about Mrs. Sparkman's illness; but again that court was substantially right. The design of a settlement was conceived in December, 1865. It was not consummated until June, 1866, and she *was* in the meantime attacked with a fatal illness.

27. In the string of small mistakes imputed to the Circuit Court at *p.* 41, the appellant's counsel has made great mistakes himself, which it is unimportant to correct in detail.

28. In opposition to the proposition stated at *p.* 46 of the brief of the appellant's counsel, it may be stated that the authorities relied on have no application to this case, and do not sustain the proposition.

11 *Wendell*, 241, *Cunningham* v *Freeborn.*
43 *Barb.*, 450, *Newman* v. *Cordell.*

29. At *p.* 56 the appellant's counsel has, unintentionally, of course, fallen into the gross error of imputing to Justice Hunt language which that Justice did not use in reference to the transaction here in question.

30. At *p.* 37 the appellant's counsel has picked out all the substantial items of property alleged to belong to J. K. & E. B. Place. He foots them up at from $420,000 to $500,000. He calls this an *enormous* sum for a firm owing $3,850,000. He has included in the aggregate the $40,000 of bonds in question, and also property in Front street, which belonged to J. K. Place, which was valued at $120,000, was mortgaged for $120,000, and sold for $117,000 (*p.* 561, *q.* 267 *to* 270.)

31. At *p.* 4 of his brief, the appellant's counsel says, E. B. Place left his large balance *with perfect confidence* in the hands of the new firm. Here he errs. In diminution of his interest, E. B. Place took, on Nov. 30, 1865, U. S. bonds to the amount of $34,816.78, which he gave to his wife; also a bond and mortgage for $25,000 on refinery property, which he gave to his wife; also a bond and mortgage on the Front street property for $78,600, which he gave to his wife. In April, 1866, he took a note for $30,000, having five years to run from Dec. 1, 1865, which he gave to his assignee; and in March, 1867, he took a mortgage for $50,000 on the refinery property which he gave to his wife (*p.* 67 *Ten Broeck; p.* 216, *fols.* 375, 376; *p.* 221, Ex. 30, under date of Nov. 30, 1865; *p.* 225, Ex. 30, under date of March 23, 1867; *p.* 426, *fol.* 723; *p.* 432, *fol.* 731; *p.* 307, Ex. 45, under date Aug. , 1867; *p.* 557, *q.* 222; *p.* 561, *q.* 267 *to* 270; *p.* 579, *q.* 369 *to* 373, *p.* 508, Ex. 70). His "*perfect confidence*"

was evinced by his getting mortgage security for $153,000, and drawing out the remainder in cash faster than he was entitled to it.

32. At *p.* 21 of his brief, the ingenious and persevering counsel fer the appellant imputes to Judge Blatchford a holding that, "as there was no evidence in the case that the bonds had ever been transferred or delivered to Mrs. Sparkman, they in reality constituted no part of the settlement." For this "vigorous and impressive" assertion, the learned counsel is indebted, probably, to the vivid imagination of his associate. There is nothing anywhere to show that that was the ground on which Judge Blatchford pronounced the bond transaction fraudulent.

33. At *p.* 55 the learned counsel for the appellant imputes to the appellee's counsel the absurd proposition that Sparkman conceived the plan of throwing away his fortune for the express purpose of cheating his creditors, &c. No such proposition, is or needs to be, insisted upon. The "positive and oft repeated asseveration and charge of fraudulent intent" made in this case is that Sparkman changed his status from that of a special partner to that of a general partner, knowing and intending that such change would enhance the credit of his new firm, because it implied that the creditors of that new firm would have a resort, not merely to his share of the capital, but to all his other property; that, so knowing and intending, and knowing that there might be losses in his new business, he determined to cheat the law which would give his creditors a remedy against such other property, by withdrawing that property, as effectually as if he had remained a special partner, beyond the reach of legal process, while not putting it beyond his own reach; for there is no proof that either he or his wife contemplated a divorce. He intended to provide against THE CONTINGENCIES of his new enterprises. The positive and oft repeated asseveration and charge is that this intent was as fraudulent as if he had intended to provide against THE CERTAINTIES of business; and this asseveration and charge are made on the authority of Case *vs.* Phelps, Carpenter *vs.* Roe, Parrish *vs.* Murphree, Lloyd *vs.* Fulton, Re Hurst, and other cases above referred to, as well as on the authority of the cases and text-books relied on by the learned counsel for the appellant.

34. At *p.* 55 of his brief, the appellant's counsel says that Mr. Sparkman at once communicated his purpose to his attorney, Mr. Wallis, an eminent and most reputable counsellor at law. There is no question about Mr. Wallis's eminence or good repute; but there is a question whether the reference made by the appellant's counsel to the record helps him or Mr. Wallis. At *p.* 9 of the record, top, Mr. Wallis is not named. At *p.* 233 of the record, Sparkman says he placed his interest in Mr. Wallis's hands from the commencement of his difficulties. If the construction put upon this by the appellant's counsel is correct, then it was at the commencement of his difficulties that Sparkman employed Mr. Wallis to draw deeds to Mrs. Sparkman.

35. At various parts of his brief, the appellant's counsel contends urgently that the court should not consider what Sparkman did after

making the conveyances in question. But the rule is universal that upon the question of good faith or fraud in a transaction which is part of a sequence of events, the conduct of the actor both before and after the transaction may be scrutinized. In the present case, as to both existing and subsequent creditors, the indebtedness of Sparkman at the time, and the contemplation of further indebtedness; the great change, (simultaneously with stripping himself of his separate property in favor of his wife,) in the apparent character of his business relations and responsibilities; the avowed operation on his mind of that change; the false lure held out to creditors; the extent and multiplicity of his business entanglements; the recording of deeds containing false recitals of value received; the deficient capital of J. K. Place & Co.; the course of his business, by which one of his firms, banks or companies eked out its inadequate resources by drafts upon the inadequate resources of another, so that the lending firm, bank or company conducted its operations in part upon the notes of the borrower; the disposition made of the proceeds of the conveyances, indicating a total contempt on the part of the father and son for the form of the settlement, and their uniform construction of its true purpose and design, are relied on as badges and *indicia* of fraud. They indicate a purpose, on the part of Sparkman, to carry on a hazardous business at the risk of creditors, while making himself secure; which is reprehended as fraudulent by this court and the courts of New York.

36. Other errors of the appellant's brief have been anticipated above.

2. *As to the personal recovery against Mrs. Sparkman's estate.*

This is a matter of no practical importance, and if the appellant's counsel does not seek any action or opinion of the court upon that portion of the decree, the appellee's counsel does not. But if a discussion is insisted upon, then the appellee's counsel submits the following:

I.—None of the proceeds of the property in question were received by Mrs. Sparkman before her death. The recovery is not against her.

II.—The property vested either in Burritt and Sheffield on December 23, 1867, (which was the date of the assignment to them), or in the assignee in bankruptcy on April 22, 1868 (*fol.* 342).

III.—When Mrs. Sparkman's executor James T. Sparkman, who was a conscious party to all the frauds which had been committed, sold the property to Preble in October, 1868, he knew he was selling property to which creditors were entitled, and that their equity attached to the proceeds.

IV.—The recovery is for interest collected on Preble's bond and mortgage from October, 1868, to the date of the decree (p. 618), and for the money paid in cash by Preble to the executor, less the amount real-

ized on the notes made by Sparkman, Place and King in favor of the executor, upon their receiving that cash from him. The final recovery was for $28,304.89 (p. 635).

V.—As, under the terms of Mrs. Sparkman's will, her husband, James D. Sparkman, the fraudulent debtor, was her chief beneficiary, and as her whole estate consisted of property fraudulently conveyed or delivered to her or her executor, no injustice is done. The recovery, if collected, only prevents money from going to the fraudulent debtor, or to his accomplice, James T. Sparkman. None of the earnings, or proper estate, of the wife, will be appropriated to the recovery. If the executor has wasted the estate, then his successor, the present appellant, can call him to account, and in that way obtain from a party who ought justly to respond, the means of satisfying the recovery.

VI. Under secs. 1 and 2, of chapter 314 of Laws of New York for 1858, *p.* 506, quoted above, a special liability is created, which the appellee is entitled to enforce.

3. *As to an award of damages for delay on this appeal.*

In case the decree is affirmed, the appellee asks from this court an award of damages against the appellant equal to the difference between the interest which has accrued, pending the appeal, on the funds in the hands of the receiver, and the legal rate of interest in New York.

The bond in this case (*p.* 643), is conditioned for the payment of "*all damages and costs, and any such damages for delay and costs and interest on the appeal which shall be awarded against the appellant.*" The penalty of the bond is $5,000 (*fol.* 1129).

In an action on a similar bond, recently tried in the United States District Court for the Southern District of New York, the District Judge held that the appellee was not entitled to recover of the sureties for his loss of interest pending an appeal, on funds in a Receiver's hands, because the appellate court had not expressly awarded "against the appellant" any damages, nor any damages for delay or interest; although the allowance of the appeal had, in connection with the bond, been treated as a stay of execution.

The bond in this case was approved under the 29th rule of this court, which was evidently intended to secure the appellee against loss resulting from the detention of the property, or his inability to use it, pending the appeal.

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Of Counsel for Appellee.